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ABSTRACT

A study examined the various laws and practices in six states regarding nonmonetary eligibility for state unemployment insurance programs and assessed the effects of these laws and policies on the states' ability to identify and reject unemployment insurance claimants who fail to meet the requirements. Eligibility for unemployment insurance in all six states was based on two sets of criteria: initial monetary and nonmonetary qualification requirements (which are based on previous employment) and continuing eligibility conditions (which are exhibited through continuing attachment to the labor market). The ability of a given state to deny benefits to ineligible claimants was found to depend on the effectiveness with which the state detects determination issues rather than on the consistency with which its determinations lead to denials. Two important practices contribute to high determination rates. The first is initiation of the determination process on the basis of information from several actors, and the second is an insistence upon obtaining simple factual information from employers on the reason for separation. The severity of penalties affects administrative behavior during the determination process as well as the behavior of potential claimants. Also important are comprehensive and detailed written policies. A broad view should be taken of the types of information that justify inquiry, and the information available to the adjudicator responsible for decision making should be maximized. (MN)

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Foreword

Eligibility for unemployment insurance benefits is determined in part by compliance to a set of nonmonetary requirements having to do with initial separation issues and continuing eligibility. The ability of states to ensure that claimants comply with these regulations and that those who do not are denied benefits depends on a number of legislative, regulatory and administrative factors. This study examines the various state laws and practices regarding nonmonetary regulations and assesses their effect on the ability of states to identify and reject unemployment insurance claimants who fail to meet the requirements. According to the authors, "the patterns observed in the analysis may suggest how certain practices can help state agencies (1) minimize the extent to which claimants violate nonmonetary eligibility rules, and (2) maximize the ability of agencies to detect violations when they occur and to reduce or deny benefits accordingly." This is essential to the equitable and efficient operation of the program.

Facts and observations expressed in the study are the sole responsibility of the authors. Their viewpoints do not necessarily represent positions of the W. E. Upjohn Institute for Employment Research.

Robert G. Spiegelman
Executive Director

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Preface and Acknowledgments

Eligibility for unemployment insurance benefits is based on two sets of criteria: initial monetary and nonmonetary qualification requirements (which are based on previous employment), and continuing eligibility conditions (which are exhibited through continuing attachment to the labor market). Much of the burden for the equitable and efficient operation of the system rests on the nonmonetary standards for both initial (i.e., separation) and continuing (i.e., nonseparation) eligibility, yet, as they are applied, these standards do not easily lend themselves to review or understanding.

This monograph investigates the influence of state laws, regulations, and procedures on nonmonetary eligibility. Our objective is to identify practices that are particularly effective in detecting ineligibile claimants, given the variation in the definitions of ineligibility. To the extent that we succeed in establishing these "best practices," agencies might be able to monitor their procedures more effectively and possibly modify them to meet their own objectives. More specifically, the patterns observed in the analysis may suggest how certain practices can help state agencies (1) minimize the extent to which claimants violate nonmonetary eligibility rules, and (2) maximize the ability of agencies to detect violations when they occur and to reduce or deny benefits accordingly.

The research underlying the monograph represents a truly collaborative effort between program administrators and researchers. The research would not have been possible without the considerable cooperation both of UI directors in the states we visited and of their staff in state and local offices. Many people in the Department of Labor provided invaluable assistance during the study operations, as well as useful comments on our work. They include William McGarrity (the study project officer), Wayne Zajac, Joseph Hight, Gene Biglin, and the late Edwin Kerley.

Paul Rynders and John Wichita of Mathematica Policy Research shared in the analytical effort. Wichita designed most of the process

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analysis field procedures, and he and Rynders conducted the on-site analysis. David Stevens of the University of Missouri and David Zimmerman of Mathematica Policy Research contributed their substantial expertise to the design effort. Finally, Robert Spiegelman and Saul Blaustein of the W. E. Upjohn Institute provided valuable comments on an earlier draft of the monograph.

As always, the contents of this monograph represent only the views and interpretations of the authors, and do not necessarily represent the views of the people or organizations who made its preparation possible.

Executive Summary

This study focuses on the nonmonetary eligibility rules and their effect on the rates at which UI benefits are denied. It examines the variety of state laws and practices on nonmonetary requirements and their effect on the ability of states to identify and reject UI claimants who fail to meet the requirements. The rates at which claimants are denied benefits based on nonmonetary eligibility rules are used as a measure of the effectiveness with which states are enforcing adherence to the rules.

STUDY DESIGN

This study was designed in recognition that administering the UI program is a complex undertaking: a wide range of legislative, regulatory, administrative, and personnel factors can potentially affect the ability of a state to ensure that UI claimants comply with the nonmonetary requirements in order to receive benefits, and that those who do not are denied benefits. Several actions or inactions could lead to the violation of nonmonetary requirements and, hence, to benefit denial. They include voluntary quit, discharge for misconduct, inability to work or unavailability for work, and refusal of a job offer or referral. The study considers each of these issues individually.

Our approach for studying how various features of state programs affect nonmonetary eligibility first entailed using the data sets that were already available in published form to evaluate statistically the relationship between each major category of nonmonetary eligibility (as measured by denial rates) and a set of variables that reflect easily identifiable provisions of state UI laws, quantifiable descriptors of the administration of nonmonetary eligibility rules, indicators of the generosity of state programs, and descriptors of the economy and various other aspects of each state. This regression analysis, based on quarterly state data covering the period from 1964 to 1981, pointed out several systematic relationships between the policy variables that describe the state UI programs and the rates at which claimants are disqualified for nonmonetary reasons. Nevertheless, the statistical analysis based on these published data left many questions unanswered, and thus underscored the necessity of collecting primary data that would enable us to evaluate the relationship between program characteristics and nonmonetary eligibility in greater detail.

Our response was to conduct an "administrative," or "process," analysis in selected states. Its objective was to investigate state policies and practices in greater detail than was possible with published data, so as to (1) differentiate more clearly and precisely the variation in policies and administration that exists across states, and (2) discover how the laws, regulations, and administrative practices that create "effective policy" affect patterns of nonmonetary eligibility.

To conduct the process analysis, project staff selected six states for intensive site visits, and collected data from relevant documents and through interviews with key state and local program officials. State selection was guided by the statistical analysis to ensure that the study states represented an appropriate range of denial rates for each issue.

FINDINGS

Several specific patterns emerged from the analysis that should be of interest to those who are responsible for monitoring nonmonetary eligibility. They are summarized below under five key topic headings. Of course, all conclusions must remain somewhat tentative because of (1) the nature of what can and cannot be observed (e.g., we can observe denial rates but not the rate at which ineligible individuals are deterred from applying), (2) an inability to demonstrate causality clearly through a process analysis, and (3) the relatively modest scale of this study.

1. *The Importance of Issue Detection Relative to Fact-Finding and Adjudication*

Given the set of eligibility requirements, the study found that the ability of a state to deny benefits to the ineligible population depends on the effectiveness with which it detects determination issues, rather than on the consistency with which its determinations lead to denials. The frequency with which issues are detected is affected not only by eligibility policy, but also by a wide range of administrative guidelines and procedures that may vary from office to office in terms of how they are applied, and that may be adhered to closely or loosely depending upon available staff resources, the pressure of claimant traffic, and the level of agency management control. For a variety of reasons, the process of fact-finding and adjudication is much more administratively confined; hence, the rate at which determinations lead to denials exhibits much less variation among the states than does the determination rate itself. By implication, there is considerably more room for policy and management initiatives to improve the detection of determination issues than there is for such initiatives to improve the adjudication process.

2. *Factors That Affect Success in Detecting Potential Eligibility Issues*

In terms of detecting separation issues, the study found two important practices that seem to contribute to high determination rates. The first is the initiation of the determination process on the basis of information from several actors—claimants, employers, or the agency itself—rather than on a restricted set of acceptable sources for identifying particular issues. Low determination rates for separation issues are often associated with rules that restrict which party may raise an issue. The second practice, which clearly pertains to the first, is an insistence upon obtaining simple factual information from employers on the reasons for separation. This practice would imply that (1) employers' responses about the separation reasons be obtained before the initial claims are processed, and (2) employers be asked for a factual statement about the circumstances surrounding separation, rather than whether they had any reason to question a claimant's eligibility. Where persistent follow-up is undertaken to obtain an employer's response, procedures should recognize the principle that it is the *agency* and not the employer which bears responsibility for protecting the integrity of the eligibility process.

In terms of detecting nonseparation issues, three general factors that vary from state to state seem to affect determination rates. First, it seems clear that a formal requirement which stipulates that claimants engage in their own active work search is a necessary foundation for effectively assessing their exposure to the labor market in terms of their work availability. However, although a formal work-search requirement is necessary, it is not sufficient to ensure that availability and refusal issues will be identified. Thus, the procedural definitions of evidence required to document adequate work search also seem to have an affect on the determination rate. Second, determination rates and, hence, denial rates also seem to depend on the purposefulness and frequency with which claimants' ongoing eligibility is questioned. One important aspect of this practice is that questions on claims cards should request simple factual statements from claimants, rather than to allow them to form subjective judgments about whether their behavior is within eligibility norms and to incorporate them in their answers. The other important aspect is the Eligibility Review Process (ERP). After the initial claim has been filed, ERP interviews often present the only routine opportunity for the agency to have personal contact with claimants. The ERP interviews should be scheduled relatively frequently, and they should entail a careful review of the extent to which a claimant is meeting the state's eligibility standards. Finally, the manner in which ongoing claims reports are reviewed by UI staff also seems to be an important factor in the ability of states to detect nonseparation issues. Ongoing claims reports should be reviewed rigorously and consistently in accordance with each state's rules on claimant behavior.

3. *Significance of the Severity of Penalties Imposed for Denials*

More severe penalties seem to affect the behavior of claimants and potential claimants. We know, for example, that the denial of benefits for the duration of the unemployment spell has a negative impact on denial rates for most issues. These penalties may deter individuals from such actions as quitting a job or refusing a job offer. Moreover, more severe penalties may also be more likely to discourage individuals from applying if they suspect that their actions will render them ineligible for benefits.

The severity of penalties can also affect the UI program by influencing administrative behavior in the determination process: some evidence suggests that the option of milder penalties may increase the frequency with which agency staff deny benefits. However, although less severe penalties may lead to more denials, we do not recommend milder penalties as sound policy. First, they may simply encourage a greater number of applications from ineligible individuals. Second, at least to the extent that an agency has different degrees of violations (and penalties) to choose from, issues which warrant denial under more demanding standards may be pursued inadequately.

4. *The Importance of Clear Policies and Procedures*

In states that have more comprehensive and detailed written policies and procedures, the staff's understanding of state policy tends to be more accurate and consistent. Detailed and specific policies tend to restrict the amount of discretion that can be exercised by claims staff when considering each claimant's case. To the extent that the clarity of defined policy is effectively communicated to line staff, its effect should be to increase the consistency with which similar cases are treated in the determination process.

5. *Organization of the Fact-Finding and Adjudication Process*

As expressed previously, the study found that a broad view should be taken of the types of information that justify inquiry and some form of determination. Identifying a greater number of issues, rather than simply trying to justify only those issues that stand a good chance of leading to denial, seems more likely to lead to the effective denial of a high percentage of truly ineligible cases. However, casting the broad net of potential issues certainly increases the workload imposed on staff who are responsible for conducting fact-finding and determinations.

Thus, a related observation is that agencies must obviously find some way to work effectively under the workload burdens imposed by the greater frequency with which issues are detected in the determination process. The study noted two different approaches for doing so. First, by conducting some informal clarification and fact-finding before the formal determination process, some states were able to eliminate some issues before reaching the point at which a formal written decision and notification were necessary.This approach reduced the workload to some extent by avoiding part of the work required in a formal determination. In terms of the second approach, some states simply improved the efficiency with which they conducted the determination process. The former approach often seemed to be associated with other practices that prevented valid issues from being identified. Thus, improving the efficiency of the determination process seems to represent a sounder course for dealing with resource problems than would efforts to avoid formalities of the determination procedure.

Finally, our observations in the states underscore the importance of maximizing the information available to the adjudicator who is responsible for making termination decisions. This factor is important for the sake of rendering informed decisions that promote confidence in the thoroughness an equitability of the determination process, and of avoiding frequent recourse to the appeals process.

Some tension obviously exists between the goals of conducting determinations efficiently and maximizing the information that is developed through fact-finding. Insisting that employers and claimants be present for all fact-finding interviews in which both are relevant not only is infeasible but would also substantially increase the costs of the process—in many cases unnecessarily. Some states conduct fact-finding hearings by telephone or perform separate contacts to gather information from the parties involved. No extreme solutions are suggested. However, two concluding recommendations are offered. First, determination decisionmaking by staff who are not involved in fact-finding, using primarily written summaries of facts and without personal contact with the parties, may be counterproductive, leading to an increased number of appeals. Second, states should encourage relevant parties to participate in a determination whenever it appears that their interests are at stake, and that there is some chance that they have further information or rebuttals to offer.

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Introduction

Unemployment insurance programs offer financial assistance to insured workers who have recently been separated from their jobs—usually involuntarily—and who have a continuing attachment to the labor market. Unemployment insurance (UI) is meant to provide income to workers deprived of their jobs through no fault of their own, and who would be employed if they were able to secure a suitable job. To ensure that benefits are paid only to claimants who have substantive attachment to the labor market and who are unemployed through no fault of their own, state UI programs specify both monetary eligibility requirements, pertaining to past employment and wages, and nonmonetary eligibility requirements, pertaining to the circumstances of job separation, claimants' continuing availability for work, and their willingness to accept it. Past employment and continuing availability for work are viewed as evidence that an individual has been and continues to be attached to the labor market and, if out of work, should be considered unemployed.

This study focuses on nonmonetary eligibility rules and their effect on the rates at which UI benefits are denied. It examines the variety of state laws and practices concerning nonmonetary requirements, and the effect of these laws and practices on the ability of states to identify and reject UI claimants who fail to meet the requirements. The rates at which claimants are denied benefits based on nonmonetary eligibility rules are used as a measure of the performance of states in enforcing adherence to the rules. Claimants may be denied benefits under these rules due to "separation issues" (the circumstances under which they left their last job) or to "continuing eligibility" issues (their availability for work, willingness to accept work, and search for employment).

Nonmonetary denial rates are one measure of the effectiveness of the UI program in minimizing payments to individuals who do not meet nonmonetary eligibility standards, but they are not a perfect measure. Denial rates are certainly influenced by the effectiveness of a state agency in detecting claimants whose circumstances or actions make them ineligible. However, the frequency of payments to ineligibles may also be affected by factors whose impacts are not reflected in denial rates, such as policies which discourage individuals from applying for benefits at all when they doubt their own eligibility. Thus, low denial rates do not *necessarily* indicate a failure to deny payments to ineligibles, nor do high denial rates indicate success. They are, however, the major source of information on the outcomes of agency efforts to bar payments to ineligibles. Moreover, available data can be broken down into the separate rates at which issues are detected and at which benefits are actually denied, and are available for each reason for denial. They can thus be examined in detail and compared with quite specific characteristics of state policy and administration.

The motivation for this study lies in the wide variation in the states' nonmonetary denial rates and a corresponding diversity in state laws, regulations, and procedures that deal with nonmonetary eligibility. Our aim has been to identify aspects of state UI laws and regulations, and approaches for enforcing nonmonetary eligibility requirements administratively, that seem to affect the rate at which claimants are denied benefits. Establishing relationships between methods for applying nonmonetary rules and denial rates may offer some help to states in their efforts to respond to fiscal pressures and concerns about the accuracy of program eligibility decisions.

This introductory chapter points out some of the variety in state laws and practices that deal with nonmonetary eligibility, and the way in which this diversity reflects continuing debate about the appropriate goals of the UI program. Despite this diversity, all states have had to address concerns about the accuracy of program administration, particularly given the severe fiscal drains on program funds in recent years. The ways in which these demands have been felt and met are briefly described. Finally, as background to the detailed analysis presented later, this chapter explains the structure of nonmonetary eligibility rules.

A. Approaches to Nonmonetary Eligibility: State Variation

Like most aspects of unemployment insurance, nonmonetary eligibility rules and their administration reflect the policy decisions, political attitudes, and economic conditions of the individual states. Despite the general framework of federal law on unemployment insurance, the variety of approaches adopted by states demonstrates a continuing lack of consensus on the appropriate strictness of UI eligibility decisions.

Because state UI programs are part of the federal-state system, they are constrained by federal standards, but they do retain wide discretion over their laws and practices. Federal law on nonmonetary eligibility deals primarily with two concerns: it defines and protects the substantive rights of claimants when a UI agency questions their availability or ability to work or their refusal of job offers, and it defines their procedural rights in determinations or fair hearings.[1] In other respects, federal standards allow the states wide latitude.

The variety of state approaches to nonmonetary eligibility rules and their enforcement illustrates the persistent tension between two competing views of the program: as a benefit program to protect employees, and as an employment stabilization program, paid for by employers to respond to their needs. Of course, all state UI programs in fact respond to both views, but differences in UI law and administration suggest that patterns of public attitudes and political influences vary from state to state.

Much of the diversity among state programs is revealed only by a detailed examination of administrative practices and regulations, because on the surface the states' UI laws sound similar themes. One purpose of this study was to uncover these differences; for the sample of states included in this study, the variety of regulations and administrative enforcement will be explained in later chapters. However, some brief examples of the divergences among state programs at this point can demonstrate why the inquiry into the effects of administrative variation on denial rates is of interest.

In their UI laws, the states adopt different approaches for defining the circumstances under which claimants should be denied benefits. For example, in some states, claimants who leave a job voluntarily can immediately receive benefits only if they left with a "good cause" that was directly related to the conditions of employment (e.g., dangerous work conditions). In other states, a variety of "compelling personal reasons" are considered good cause for leaving a job, including such reasons as following one's spouse to a new location or caring for an ill household member. The strictness with which states insist that an individual be able to work also varies. Some states base benefit denial on whether the worker is able to perform any type of gainful work that exists in the job market, while other states base benefit denial on whether claimants are in adequate health to work at occupations for which their past experience and skills suit them. Penalties for quitting or refusing a job also vary widely among states, from relatively brief delays of as little as five weeks in benefits to disqualification for the duration of unemployment, to requirements for a subsequent period of new employment before a new spell of benefits can be claimed.

Beyond differences in their laws, the states adopt quite different approaches for detecting noncompliance with eligibility requirements. Consequently, the effective strictness of nonmonetary requirements differs even between those states whose UI laws are similar. Some states, for instance, require claimants to search for jobs on their own and to report their contacts with employers, and disqualify claimants who fail to report a sufficient number of contacts. In other states, active job search may be required, but little effort is made to monitor claimants' efforts. Some states adhere to clear schedules for conducting personal eligibility review interviews, at which agency staff examine in detail the job demands set by claimants and their efforts to find work; other states conduct these interviews only sporadically and selectively.

The net effect of differences in laws and administration is that some states appear "liberal" and others "strict" in applying nonmonetary eligibility standards to claimants. Some states appear to tolerate paying benefits to individuals whose reasons for unemployment are not clearly involuntary, and whose continued attachment to the labor force might appear tenuous. In other states, the concerns of employers who pay for UI benefits appear to have led to stricter standards and closer attention to enforcement.

Nonetheless, states do not typically resolve UI policy issues once and for all. In most states, the definition of UI program rules—and thus the balance between competing interests in the program—is a matter of continuing debate. Revisions to UI law are a frequent subject of legislative bills debated each year. As political attitudes, economic pressures, and the composition of a state's industrial base and workforce change, new issues emerge that appear to call for program adjustments. The definition and enforcement of nonmonetary eligibility standards are part of this continuing debate.

B. Pressures to Tighten Nonmonetary Eligibility

Whatever the normal balance that is struck in various states between employers' and employees' interests in the UI program, all UI agencies are faced with shifting financial and political pressures on their programs which can lead to changes in the definition and enforcement of eligibility rules. Economic conditions change for better or for worse, relieving or aggravating concerns about the balance between UI tax revenues and benefit disbursements. Evolving public attitudes about relying on government assistance programs may modify the balance of political pressures on state legislatures. Attention to the general administrative integrity of governmental programs, and their ability to carry out the intent of the legislature accurately, intensifies at times, particularly when administrative problems appear to contribute to a deterioration in the financial stability of a benefit program.

The condition of the economy is clearly the primary external factor that affects UI trust funds and can focus attention on ways to make the eligibility process more restrictive. In times of recession, more unemployed workers draw benefits from the trust fund, and declines in employer payrolls reduce tax payments into the trust funds. In response to trust fund problems, states can raise UI taxes, curtail benefit levels, and tighten both monetary and nonmonetary eligibility standards.

Severe strains have been placed on UI trust funds by the recessions of the mid-1970s and the early 1980s. These strains are starkly depicted by the relationship between trust fund reserves and benefit payout rates. At the end of 1969, the "reserve ratio multiple"—the ratio of trust fund reserves as a percentage of covered payrolls to total benefits paid as a percentage of covered payrolls—exceeded 1.5 in 34 states and exceeded 1.0 in 16 other states. Ten years later, 38 states had reserve ratio multiples of less than 1.0. During the recessions of 1980 and 1981-1982, 32 states saw their trust funds go into the red at some point and were forced to borrow from the federal UI trust fund.[3]

The precarious condition of UI trust funds that resulted from the recent recessions stemmed at least in part from benefit eligibility policies and employer tax policies that combined to deplete trust funds far more rapidly than they could be replenished. Trust fund problems have been exacerbated in some states by past trends towards liberalizing benefit levels and eligibility conditions and narrowing the definitions of employer tax liabilities. Although reserve balances are expected to be drawn down in recessions, the plunges in fund balances that occurred in these recent recessions were unprecedented. The deterioration of state trust fund reserves has prompted state legislatures, UI agencies, and the federal government to focus renewed attention on the financing of the UI program, the monetary and nonmonetary rules under which claimants qualify for benefits, and the integrity and rigor with which eligibility standards are administered.

One indication of the heightened concern about program integrity is the attention that has been focused on ways to improve the accuracy of UI claim actions. State UI programs routinely conduct their own efforts to detect levels and patterns of overpayments that are caused by erroneous decisions about or inaccurate information on monetary or nonmonetary eligibility rules. In recent years, the U.S. Department of Labor initiated the Random Audit program, a pilot program to improve the monitoring of error rates and the sources of error in eligibility decisions. Federal concern for ensuring accurate measures of program errors has subsequently led to preliminary preparations for an expanded quality assurance program designed by the Department of Labor, which is scheduled to be implemented in 1986. Another example of recent attention to program administration, and specifically to nonmonetary eligibility, is the South Carolina Claimant Placement and Work Test Demonstration.[3] This demonstration, funded by the Department of Labor, was designed to reduce UI payments by strengthening the UI work test, increasing job placements for UI claimants, helping claimants search for jobs, and improving the exchange of information between the Job Service and UI offices concerning claimant eligibility issues.

Federal incentives for improving state trust fund balances have also been strengthened, encouraging states to reexamine not only their nonmonetary eligibility rules but also their tax rules, benefit levels, and monetary eligibility requirements. Under recent legislation, loans from the federal UI trust fund to debtor states now carry interest charges. States that enact legislation to improve their trust fund solvency, either through benefit reductions or tax increases, can limit federal penalty taxes, defer interest payments, and receive reductions in interest charges on outstanding debts. States, particularly those with the most severe trust fund deficits, have responded with program changes. All eight states with the largest debts in 1982 passed important legislation between 1982 and 1984 to deal with solvency.[4]

C. Nonmonetary Eligibility Rules

Qualification for UI benefits is based in all states on two sets of criteria—monetary and nonmonetary. Monetary requirements are imposed as part of the initial eligibility process when individuals request benefits, and pertain to their record of past employment and wages. Nonmonetary requirements are imposed for both initial and continuing eligibility. Monetary qualification issues are not within the scope of this study; they are discussed in this report only in connection with disqualification penalties for nonmonetary issues that require reestablishing monetary qualification.

Initial nonmonetary eligibility rules are codified in each state's definition of "negative disqualifying actions"—those actions or behavior by claimants which, if found to be the cause of job separation, would be cause for benefit denial. These include voluntary quits, misconduct, involvement in labor disputes, and fraudulent misrepresentation. Claimants disqualified under these rules may not receive benefits during a defined nonentitlement period, whose length is fixed for some issues in some states and is subject to some administrative discretion in others.

Continuing eligibility rules require two positive conditions—the availability for and the ability to work—and the absence of one negative action—a refusal to accept available and suitable work. Failure to satisfy either of the first two conditions makes claimants ineligible only as long as they remain "unavailable" or "unable" (with a one-week minimum period of ineligibility). Unwillingness to accept available suitable work leads to disqualification for a specified period defined in each state's statutes. Compliance with all of these conditions is required for continuing benefit entitlement.

The process of identifying noncompliance with either initial (i.e., separation) or continuing (i.e., nonseparation) eligibility standards is called "eligibility determination." The first step of the determination process is "fact-finding"—collecting information from the claimant and other interested parties. Fact-finding is followed by a formal review or hearing and a decision about whether or not to deny benefits, depending upon the merits of the case and the interpretation of the rules. In some instances, informal fact-finding may precede this process, but claimants cannot be denied benefits without undergoing a formal determination. Determination decisions can be appealed to separate appeals units within the state UI agency. In most states, there are actually two levels of appeals possible, although most appeals go no further than the first level (or "lower authority").

Although all state programs share these basic elements of nonmonetary eligibility policy, wide variation exists in the details of their eligibility rules, the level of detail and precision achieved in their legislation and regulations, the rigor and consistency with which they enforce rules, the methods they use to detect nonmonetary issues, and the procedures they use for fact-finding and for formulating determination decisions. The wide diversity among the state programs in nonmonetary eligibility rules and practices is evidence of the relatively modest role of federal legislation in this aspect of unemployment insurance, the wide latitude granted to the states, and the variety of political, economic, and managerial factors that help define and implement the program.

D. Overview of the Study

We approached this study on the influences of state laws, regulations, and procedures on nonmonetary denial rates in two ways. The first was to use available published data to analyze the statistical relationships between denial rates and the characteristics of state laws. Two sets of variables were used for this analysis. One set consists of denial rates for the four standard denial reasons—voluntary leaves or quits, misconduct, not able or available, and refusal of suitable work. These rates were used as outcome variables. The other set—used as explanatory variables in the statistical model—consists of easily identifiable provisions of state UI laws, quantifiable descriptors of the administration of nonmonetary eligibility rules, measures of the generosity of state UI programs, and descriptors of the economy and other characteristics of each state. As described in chapter 2, a regression analysis based on quarterly state data covering the period from 1964 through 1981 revealed certain relationships between these explanatory variables and denial rates. Nevertheless, this statistical analysis inevitably left many questions unanswered, and served primarily to point out the necessity for (and direction of) further investigation. In particular, our limited ability to characterize state programs with available published data meant that a great deal of the variation in denial rates remained unexplained by the equations estimated with our model.

Thus, the second approach taken in the study was an "administrative," or "process," analysis in selected states. Our objective was to investigate state policies and practices in greater detail than was possible with published data, in order to (1) differentiate more clearly and precisely the variation in policies and administrative practices across states, and (2) discover how the laws, regulations, and administrative practices that create the "effective policy" influence patterns of nonmonetary eligibility and denial rates.

To conduct the process analysis, project staff selected six states for intensive site visits, and collected data from relevant documents and in-person interviews with key individuals in state UI agency offices and field offices. This effort was designed to gather information about the full range of factors that determine actual policy as implemented in the states, and to do so by examining the UI program in each state from a variety of perspectives. Chapter 3 describes the process analysis methodology.

Generalizing from a study with only six judgmentally selected states is difficult at best, although the states were selected carefully to ensure that a range of program models was represented. Nevertheless, this portion of the study did produce a rich body of information that enables us to distinguish among different approaches to administering UI programs, including their major statutory, regulatory, and procedural features. Although identifying relationships between these features and the differences in nonmonetary eligibility rates requires a high degree of judgment, we feel that we have identified several key relationships and have obtained some evidence to suggest others. Chapter 4 presents a basic description of state program characteristics which constitute the "raw" data of the process analysis. Chapter 5 then returns to the main focus of this study to evaluate what we have learned from the process analysis about the effects of state policies and procedures on nonmonetary eligibility.

NOTES

1. For a description of federal standards, see U.S. Department of Labor, *Comparison of State Unemployment Insurance Laws,* Employment and Training Administration, Unemployment Insurance Service, Washington, DC, 1978, and the series of semiannual revisions to 1983.

2. For a discussion of these issues, see Saul J. Blaustein, "State Unemployment Insurance Fund Adequacy: Past and Present Perspectives," paper presented at the Industrial Relations Research Association Annual Meeting in Dallas, TX, December 28-30, 1984; and Gary Burtless and Wayne Vroman, "The Performance of Unemployment Insurance Since 1979," paper presented at the Industrial Relations Research Association Annual Meeting in Dallas, TX, December 28-30, 1984.

3. For a description of the demonstration, see Terry Johnson et al., "Design and Implementation of the Claimant Placement and Work Test Demonstration," Menlo Park, CA: SRI International, May 1984. An evaluation of the demonstration can be found in Walter Corson et al., "Evaluation of the Charleston Claimant Placement and Work Test Demonstration," Princeton, NJ: Mathematica Policy Research, September 1984.

4. For a discussion of these issues, see Wayne Vroman, *The Funding Crisis in State Unemployment Insurance* (Kalamazoo, MI: W. E. Upjohn Institute for Employment Research).

2

Statistical Evidence on the Determinants of Denial Rates

The first part of this study on UI nonmonetary eligibility rules attempted to identify how state rules and program environments relate statistically to denial rates for separation and nonseparation issues. This chapter explains the statistical analysis in four steps. First, we present data that illustrate the considerable range of denial rates across states. We then discuss the variables that could potentially influence denial rates, and their anticipated effects. In the third section of the chapter, we describe the data for the statistical analysis and the analytical methodologies. In the final section, we report the results of the analysis and their limitations.

A. State Denial Rates

The nonmonetary denial rates reported by the states to the Employment and Training Administration consist of two different types of details. First, rates are broken down into the two key stages of the nonmonetary eligibility decision process: determination and denial. Determination rates represent the number of nonmonetary issues detected and investigated per 1,000 spells of insured unemployment for separation issues, or per 1,000 claimant contacts (weekly claims) for nonseparation issues. Net denial rates indicate the number of claimants who are actually denied benefits per 1,000 spells or contacts. The net denial rate can be divided by the determination rate to compute the percentage of determinations that lead to denials.

Second, the two key stages of the nonmonetary eligibility process (determination and net denial rates) are also broken down separately into quits and misconduct—that is, separation issues—and "able and available" and job refusal—that is, nonseparation issues.

As shown in table 2.1, net denial rates vary widely from state to state. For example, while the average state denial rate for voluntary quits was 54.9 per 1,000 new spells of insured unemployment in 1982, the rate ranged from a high of 224.5 in Nebraska to a low of 12.9 in Pennsylvania. The voluntary quit denial rates of the 10 states with the highest rates were more than twice the national average. The denial rates of states also exhibit a wide range of variation in terms of misconduct issues, from 103.1 to 7.9. The denial rates of states vary to a slightly lesser degree in terms of nonseparation issues: 21.9 to 0.6 for able and available issues, and 0.7 to 0.0 for refusal of suitable work.

When the net denial rate and the determination rate are compared (see table 2.2), it is clear that some states rank quite differently in terms of detecting issues and denying benefits based on determinations. For example, the determination rate of South Dakota ranks 22nd in terms of separation issues, but its denial rate ranks 43rd because of the extremely low proportion of determinations that lead to denials. In Nevada, the opposite is true for nonseparation issues; the determination rate of Nevada ranks 31st, but its overall denial rate ranks 17th. Why some states appear to detect issues at a very high or low rate while others seem to deny benefits in a high or low percentage of cases is an important research issue, as is the significance of these measures as indicators of the ability of a state to preserve program integrity.

Table 2.1
Nonmonetary Denial Rates by State, 1982[a]

(State rank in parentheses)

	Separation issues		Nonseparation issues	
State	Quit	Misconduct	Able and available	Refusal of suitable work
Alabama	24.9 (44)	22.9 (23)	3.6 (34)	0.1 (46)
Alaska	93.7 (5)	22.3 (25)	5.3 (22)	0.3 (16)
Arizona	68.0 (14)	42.2 (12)	10.2 (4)	0.3 (20)
Arkansas	187.1 (2)	27.2 (18)	5.7 (21)	0.3 (20)
California	42.5 (24)	22.7 (24)	6.4 (16)	0.2 (27)
Colorado	139.2 (3)	66.6 (4)	7.4 (10)	0.3 (20)
Connecticut	42.1 (27)	14.2 (44)	4.6 (28)	0.4 (6)
Delaware	24.1 (45)	25.5 (19)	1.9 (44)	0.2 (35)
District of Columbia	78.0 (11)	103.1 (1)	1.1 (50)	0.0 (50)
Florida	97.2 (4)	65.7 (5)	9.0 (6)	0.3 (9)
Georgia	39.2 (32)	41.4 (13)	5.2 (24)	0.1 (44)
Hawaii	52.3 (17)	23.5 (21)	6.1 (17)	0.4 (7)
Idaho	42.1 (26)	20.2 (30)	5.3 (23)	0.3 (9)
Illinois	40.0 (29)	23.4 (22)	4.5 (30)	0.2 (33)
Indiana	37.2 (36)	22.0 (28)	1.6 (48)	0.2 (28)
Iowa	49.1 (21)	22.0 (28)	6.8 (15)	0.2 (23)
Kansas	53.1 (16)	32.4 (15)	14.5 (3)	0.3 (15)
Kentucky	31.1 (39)	19.3 (35)	3.8 (33)	0.1 (43)
Louisiana	88.9 (7)	52.5 (8)	3.2 (35)	0.2 (36)
Maine	39.4 (31)	12.0 (47)	7.0 (12)	0.5 (2)
Maryland	54.9 (15)	46.1 (10)	2.3 (41)	0.3 (13)
Massachusetts	30.9 (40)	17.9 (38)	2.2 (43)	0.1 (48)
Michigan	35.0 (38)	15.7 (40)	4.0 (32)	0.2 (36)
Minnesota	38.7 (34)	22.0 (27)	6.9 (14)	0.2 (30)
Mississippi	40.4 (28)	35.6 (14)	2.8 (38)	0.2 (30)
Missouri	49.9 (20)	42.6 (11)	9.5 (5)	0.3 (17)
Montana	69.6 (13)	19.9 (32)	6.0 (18)	0.2 (28)
Nebraska	224.5 (1)	75.4 (2)	15.3 (2)	0.3 (12)
Nevada	89.2 (6)	61.1 (7)	6.0 (18)	0.4 (4)
New Hampshire	50.9 (18)	19.9 (31)	5.0 (25)	0.3 (8)
New Jersey	39.4 (30)	30.0 (16)	6.9 (13)	0.2 (25)
New Mexico	80.7 (10)	51.0 (9)	2.8 (39)	0.1 (39)
New York	30.3 (41)	22.1 (26)	7.8 (7)	0.3 (9)
North Carolina	15.0 (50)	11.8 (48)	1.8 (46)	0.2 (34)
North Dakota	74.0 (12)	19.5 (33)	3.1 (36)	0.3 (13)
Ohio	23.5 (46)	24.9 (20)	4.7 (27)	0.1 (41)
Oklahoma	86.5 (8)	63.0 (6)	1.9 (44)	0.4 (4)
Oregon	36.6 (37)	17.4 (39)	4.9 (26)	0.3 (17)
Pennsylvania	12.9 (51)	10.0 (50)	2.2 (42)	0.1 (45)
Rhode Island	27.4 (42)	15.1 (42)	4.3 (31)	0.3 (17)

Table 2.1 (continued)

	Separation issues		Nonseparation issues	
State	Quit	Misconduct	Able and available	Refusal of suitable work
South Carolina	16.7 (47)	27.9 (17)	3.0 (37)	0.1 (46)
South Dakota	39.1 (33)	7.9 (51)	21.9 (1)	0.7 (1)
Tennessee	15.7 (49)	15.4 (41)	0.6 (51)	0.1 (41)
Texas	82.1 (9)	70.6 (3)	7.6 (9)	0.2 (25)
Utah	44.9 (23)	15.0 (43)	7.7 (8)	0.2 (36)
Vermont	50.5 (19)	18.6 (37)	1.8 (46)	0.2 (23)
Virginia	26.0 (43)	19.1 (36)	7.1 (11)	0.5 (3)
Washington	37.9 (35)	11.7 (49)	4.6 (29)	0.0 (49)
West Virginia	42.3 (25)	19.3 (34)	2.5 (40)	0.1 (39)
Wisconsin	16.6 (48)	13.8 (45)	1.4 (49)	0.2 (30)
Wyoming	46.9 (22)	13.6 (46)	5.8 (20)	0.0 (51)
National average per state	54.9	30.1	5.4	0.2
(Standard deviation)	(40.1)	(20.3)	(3.9)	(0.1)

SOURCE: Unpublished tables provided by the Unemployment Insurance Service, Employment and Training Administration.

a. Separation issue rates are reported per 1,000 new spells of insured unemployment, and nonseparation issue rates are reported per 1,000 claimant contacts.

Table 2.2
Determination and Denial Rates by State, 1982[a]

(State rank in parentheses)

	Separation issues			Nonseparation issues		
State	Determination rate	Denials as % of determinations	Denial rate	Determination rate	Denials as % of determinations	Denial rate
Alabama	62.5 (47)	76.7 (4)	47.9 (44)	25.9 (15)	93.5 (1)	24.2 (4)
Alaska	196.9 (13)	61.2 (18)	120.5 (11)	15.6 (29)	78.4 (12)	12.2 (19)
Arizona	221.3 (10)	49.8 (39)	110.2 (12)	39.6 (3)	58.0 (27)	23.0 (5)
Arkansas	253.5 (9)	84.5 (1)	214.3 (2)	13.6 (35)	76.4 (14)	10.4 (26)
California	141.6 (21)	46.0 (42)	65.2 (25)	19.7 (24)	56.6 (29)	11.2 (22)
Colorado	264.3 (6)	77.9 (3)	205.8 (3)	38.0 (4)	77.3 (13)	29.4 (3)
Connecticut	125.6 (27)	46.0 (43)	57.8 (33)	26.8 (13)	53.9 (33)	14.5 (13)
Delaware	74.2 (45)	72.7 (7)	53.9 (36)	5.9 (49)	81.9 (7)	4.8 (42)
District of Columbia	341.0 (2)	53.7 (35)	183.2 (4)	7.0 (45)	36.9 (46)	2.6 (51)
Florida	294.4 (3)	55.3 (28)	162.9 (5)	37.0 (5)	43.7 (42)	16.2 (10)
Georgia	149.2 (20)	54.0 (33)	80.6 (18)	16.8 (26)	40.9 (45)	6.9 (37)
Hawaii	162.4 (16)	46.7 (41)	75.9 (20)	25.2 (16)	54.7 (32)	13.8 (16)
Idaho	93.9 (38)	66.4 (11)	62.4 (27)	16.6 (27)	84.2 (5)	14.0 (15)
Illinois	120.6 (29)	52.6 (37)	63.4 (26)	23.9 (17)	43.2 (44)	10.3 (27)
Indiana	103.0 (33)	57.8 (22)	59.6 (32)	8.7 (40)	75.7 (16)	6.6 (38)
Iowa	127.8 (25)	55.6 (27)	71.1 (22)	14.3 (33)	85.4 (4)	12.2 (20)
Kansas	159.4 (17)	54.4 (31)	86.7 (17)	22.3 (19)	71.2 (19)	15.9 (11)
Kentucky	81.4 (42)	61.9 (17)	50.4 (39)	7.2 (42)	56.2 (31)	4.0 (48)
Louisiana	256.5 (8)	55.1 (29)	141.4 (9)	10.3 (38)	67.3 (23)	6.9 (36)
Maine	93.9 (38)	54.8 (30)	51.4 (37)	29.1 (12)	64.6 (25)	18.8 (7)
Maryland	129.6 (24)	78.7 (2)	102.0 (13)	7.1 (43)	83.2 (6)	5.9 (39)
Massachusetts	103.9 (32)	47.0 (40)	48.8 (41)	22.9 (18)	31.0 (50)	7.1 (34)

Table 2.2 (continued)

	Separation issues			Nonseparation issues		
State	**Determination rate**	**Denials as % of determinations**	**Denial rate**	**Determination rate**	**Denials as % of determinations**	**Denial rate**
Michigan	89.1 (41)	57.6 (24)	51.3 (38)	20.1 (23)	48.9 (37)	9.8 (30)
Minnesota	132.9 (23)	45.7 (44)	60.7 (29)	30.8 (9)	61.7 (26)	19.0 (6)
Mississippi	99.7 (34)	76.2 (5)	76.0 (19)	14.4 (32)	51.5 (34)	7.4 (32)
Missouri	157.3 (18)	58.8 (20)	92.5 (15)	19.1 (25)	85.8 (3)	16.4 (9)
Montana	202.0 (12)	44.3 (46)	89.5 (16)	9.7 (39)	74.6 (18)	7.3 (33)
Nebraska	434.3 (1)	69.1 (8)	300.0 (1)	67.4 (1)	56.7 (28)	38.2 (1)
Nevada	279.9 (5)	53.7 (34)	150.4 (7)	14.6 (31)	91.2 (2)	13.3 (17)
New Hampshire	116.6 (31)	61.0 (19)	71.1 (21)	13.1 (36)	80.7 (10)	10.6 (25)
New Jersey	120.3 (30)	57.7 (23)	69.4 (23)	29.8 (11)	35.6 (48)	10.6 (24)
New Mexico	209.3 (11)	62.9 (14)	131.7 (10)	6.8 (46)	81.3 (8)	5.5 (40)
New York	124.8 (28)	44.1 (47)	55.0 (34)	57.8 (2)	31.5 (49)	18.2 (8)
North Carolina	49.5 (49)	54.2 (32)	26.8 (50)	4.1 (51)	68.2 (21)	2.8 (50)
North Dakota	166.7 (15)	56.1 (25)	93.5 (14)	15.5 (30)	45.3 (40)	7.0 (35)
Ohio	77.7 (44)	62.4 (16)	48.5 (42)	26.3 (14)	37.9 (46)	10.0 (29)
Oklahoma	257.3 (7)	58.1 (21)	149.6 (8)	6.7 (47)	68.5 (20)	4.6 (45)
Oregon	126.6 (26)	42.7 (48)	54.1 (35)	32.6 (8)	43.3 (43)	14.1 (14)
Pennsylvania	33.8 (51)	67.8 (9)	22.9 (51)	30.0 (10)	15.6 (51)	4.7 (44)
Rhode Island	93.2 (40)	45.6 (45)	42.4 (47)	20.7 (22)	44.0 (41)	9.1 (31)
South Carolina	66.2 (46)	67.3 (10)	44.6 (46)	7.0 (44)	67.7 (22)	4.8 (43)
South Dakota	137.7 (22)	35.0 (50)	48.2 (43)	37.0 (6)	81.1 (9)	30.0 (2)
Tennessee	49.8 (48)	62.6 (15)	31.2 (48)	5.8 (50)	75.8 (15)	4.4 (46)
Texas	287.7 (4)	53.2 (36)	153.2 (6)	22.3 (20)	56.4 (30)	12.6 (18)
Utah	175.0 (14)	34.5 (51)	60.3 (31)	32.9 (7)	47.2 (39)	15.5 (12)

Vermont	95.0 (36)	72.7 (6)	69.1 (24)	6.5 (48)	65.6 (24)	4.3 (47)
Virginia	80.7 (43)	55.8 (26)	45.1 (45)	13.9 (34)	79.5 (11)	11.0 (23)
Washington	97.9 (35)	50.7 (38)	49.6 (40)	20.9 (21)	49.0 (36)	10.3 (28)
West Virginia	95.0 (37)	65.1 (13)	61.8 (28)	7.5 (41)	51.5 (35)	3.9 (49)
Wisconsin	46.1 (50)	66.0 (12)	30.4 (49)	11.5 (37)	47.3 (38)	5.5 (41)
Wyoming	155.1 (19)	39.0 (49)	60.5 (30)	15.6 (28)	74.8 (17)	11.7 (21)
National average per state	149.3	57.4	85.4	20.3	61.4	11.6
(Standard deviation)	(83.6)	(11.3)	(55.0)	(13.1)	(18.2)	(7.4)

SOURCE: Unpublished tables provided by the Unemployment Insurance Service, Employment and Training Administration.

a. Separation issue rates are reported per 1,000 new spells of insured unemployment, and nonseparation issue rates are reported per 1,000 claimant contacts.

In general, however, states with high or low denial rates for separation or nonseparation issues have correspondingly high or low determination rates. For example, in terms of separation issues, nine of the top ten states whose determination rate is among the highest also rank in the top ten in terms of the denial rate. For nonseparation issues, the corresponding figure is seven of ten, with two of the three remaining states ranking within the top fifteen. Similarly, states whose determination rate ranks among the lowest also rank among the lowest in denial rates. This pattern suggests that, in explaining denial rates, it is just as important to examine the factors that affect the number of determinations that are made as it is to consider the factors that affect how often determinations lead to denials. Some factors may of course affect both rates. For example, state laws that explicitly define reasons for benefit denial for able and available issues will probably lead to relatively high rates at which determinations lead to denials, but they will probably also increase the number of determinations made, because potential issues will be more apparent to UI staff.

B. Determinants of Denial Rates

Nonmonetary denial rates can potentially be affected by a variety of factors—some are internal to the UI system, while others are external to the UI system, such as characteristics of the economy. Within the constraints of available data, the statistical analysis was designed to estimate the effect of five internal or external factors on denial rates: (1) the characteristics of state laws; (2) the thoroughness of the administrative process in UI determinations; (3) the generosity of UI benefits; (4) the state of the economy; and (5) the general philosophy of the state towards UI claimants. Although only limited information on these factors could be incorporated into the statistical analysis, it is important to distinguish among the expected effects of each on denial rates.

Characteristics of State Laws

Two types of variation that are readily discernible in state laws can be viewed as potential influences on denial rates: the severity of disqualification penalties, and the stringency of the rules that must be satisfied by claimants to qualify for benefits. Based on the information on state laws compiled in the U.S. Department of Labor's *Comparison of State Unemployment Insurance Laws,* three variables that describe penalties and four that describe the stringency of eligibility requirements were identified for the analysis. Each was defined as a "yes" or "no" variable (1 or 0, respectively, for purposes of the statistical analysis). These variables are as follows:

- *Duration of Disqualification for Voluntary Quit.* If claimants who have quit without good cause are disqualified for the duration of the spell of unemployment, the variable has a value of "1." If the disqualification is less severe and is set for some specific term, the variable is set to "0."

- *Duration of Disqualification for Misconduct.* Similarly, disqualification for the full period of unemployment sets this variable to "1," and a specific term of disqualification sets it to "0."

- *Duration of Disqualification for Refusal of Suitable Work.* Claimants who refuse a job offer may be disqualified for the full period of unemployment, in which case the variable is set to "1." If shorter disqualification periods are imposed, the variable is "0."

- *Good Cause Restricted to Employment-Related Reasons.* If state law limits acceptable reasons for a voluntary quit to reasons that pertain to the conditions of employment, this variable is set to "1." If state law does not restrict acceptable reasons in this manner and allows compelling personal reasons or other nonemployment-related reasons, the law is viewed as less stringent, and the variable is set to "0."

- *Suitable Work.* This variable is set to "1" if the state requires that the claimant be able and available only for work deemed *suitable.* A more stringent requirement, at least in theory, is an unqualified requirement, without reference to the suitability of work. This variable is set to "0" for states with such unqualified requirements.
- *Usual Occupation.* This variable is set equal to "1" if the state requires that the individual be able and available for work only in the *usual* occupation or for an occupation in which the individual is reasonably suited by prior training or experience, and "0" otherwise. Requiring availability for "usual" work is another way to qualify the able and available rule to make it more lenient. This variable and the suitable work variable are thus mutually exclusive.
- *Actively Seeking Work.* This variable is set equal to "1" if the state requires that the individual engage in active work search as evidence of his/her availability. It is set to "0" if no such requirement is stated in the law.

Disqualification penalties can be expected to affect denial rates in several ways. First, we expect that more severe disqualification penalties will discourage UI application by individuals who have quit their jobs, because they will perceive a lower likelihood of receiving benefits. In addition, we expect that more severe disqualification penalties would reduce the overall number of individuals who quit their jobs, because the chances of being able to fall back on UI benefits to replace employment income are perceived as lower than if a limited disqualification period were anticipated. We assume, however, that the severity of the disqualification penalty will not affect agency denial decisions in any given determination. Given these assumptions, we concluded that more severe disqualification penalties are likely to *reduce* denial rates by deterring claimants from quitting and applying for benefits. We thus expected that disqualification for the duration of unemployment (for voluntary quits, misconduct, or refusal of suitable work) would have a negative effect on denial rates for each of those respective reasons.

For the four state law variables that indicate the relative stringency of requirements imposed on claimants, we hypothesized that more restrictive definitions of acceptable reasons for leaving a job, seeking work, or responding to offers would increase the likelihood that agencies would find claimants ineligible. This hypothesis reflects the assumption that more stringent requirements for accepting work or being available for jobs and for conditions of voluntary quit will not have substantial effects on individuals' behavior. Thus, with a fixed pattern of claimant behavior, more stringent requirements will increase the percentage of claimants who fall outside defined eligibility standards, are detected as being potentially ineligible, and are denied benefits as a result of a determination. This hypothesis contrasts with our expectations about the effect of disqualification penalties, which we hypothesized would affect primarily the decisions of employees and potential claimants. In this case, more stringent requirements are hypothesized to affect agency detection and decisions, rather than the rate at which persons leave jobs voluntarily, the definitions they formulate of the work they will accept, and their responses to job offers.

Therefore, for the state law variables that pertain to good cause restriction, suitable work and usual occupation provisions, and active work search requirements, we anticipated that greater stringency would be associated with higher denial rates. However, since we defined these four variables differently, some of the variables can be expected to have negative effects and others positive effects. Because the "good cause" and the "active work search" variables are defined so that a value of "1" implies greater stringency, their effect on denial rates was expected to be positive. However, provisions pertaining to suitable work and usual occupation are defined so that "1" indicates a more lenient policy; thus, these variables are expected to have a negative effect on denial rates. The hypothesized effects of state law provisions are summarized in table 2.3.

Table 2.3
Expected Effects of State Laws on Denial Rates

	Denial for:			
State law variable	Quits	Misconduct	Not able & available	Refusal of suitable work
Disqualification for quitting is for duration	—	n.a.	n.a.	n.a.
Disqualification for misconduct is for duration	n.a.	—	n.a.	n.a.
Disqualification for refusing suitable work is for duration	n.a.	n.a.	n.a.	—
Good cause restricted	+	n.a.	n.a.	n.a.
Suitable work	n.a.	n.a.	—	—
Usual work	n.a.	n.a.	—	—
Actively seeking	n.a.	n.a.	+	n.a.

n.a. = not applicable.

Administrative Process

We also considered another set of internal UI variables that may affect denial rates—namely, variables that describe the administration of nonmonetary eligibility determinations. For this analysis, we used variables that describe both the amount of time devoted to completing each determination and the timeliness and quality of these determinations. Data available from the U.S. Unemployment Insurance Service provide measures of these variables for separation and nonseparation issues: (1) minutes per unit (a measure of time devoted to each determination); (2) the percentage of determinations completed within a federally defined time standard; and (3) the percentage of determinations found correct in quality control audits.

We had no specific expectations about the overall effect of these administrative variables, because equally plausible hypotheses suggest opposite effects on denial rates. For example, states that devote a greater amount of time to each determination might uncover additional issues or more evidence to support denials, which could of course raise denial rates. On the other hand, devoting more time to determinations could increase the chances that extenuating circumstances to support the claimant's actions are fully explored, which could of course tend to lower denial rates.

Generosity of UI Benefits

Several variables that are included in our analysis describe the level of UI benefits and the interaction between benefits and external economic factors that affect the relative attractiveness of the UI program. These variables are the average wage-replacement rate (average weekly benefits divided by average weekly earnings), the average potential duration of benefits, and a binary variable that indicates periods in which federal extended benefits (EBs) are available. Higher values of each of these variables indicate more generous UI benefits or benefits that compare more favorably to lost wages. We hypothesized that these factors would make the receipt of UI more attractive, and thus increase the proportion of "truly ineligible" individuals who would attempt to collect UI benefits. Thus, we expected these variables to have a positive effect on denial rates pertaining to all of the denial reasons.

Characteristics of the Economy

Another set of variables included in our statistical analysis describes the state of the economy (based on the insured unemployment rate) and the composition of the unemployed population (based on the percent in construction, the percent in manufacturing, the percent male, and the percent age 25 and under and age 55 and over). We hypothesized that a higher unemployment rate would reduce denial rates because workers would be less likely to quit jobs and because fewer job offers would exist that could be refused.

We also expected that the proportion of claimants in construction and manufacturing would have a negative effect on denial rates because of the high rates of unionization and the high proportion of temporary layoffs followed by recall, as are characteristic of these industries. In many states, claimants in unions are exempt from UI work-search requirements if they normally obtain work through the union (this exception is particularly true in the construction industry). A high incidence of temporary layoffs would presumably also reduce the proportion of job separations which are caused by quits. We also considered unionization more directly by using the percentage of each state's workforce that is unionized as an independent variable that could explain variations in denial rates.

For the demographic variables, we expected that the proportion of the unemployed who are male would have a negative impact on denials, but that higher proportions of both younger and older claimants would raise denial rates. These hypotheses were based on the assumption that groups which are usually considered to have more marginal attachments to the labor force than do other groups would be more likely to be denied benefits.

General Attitudes Toward UI Claimants

A final factor that may influence denial rates is the general philosophy of each state toward UI claimants. For example, states may differ in the degree to which they emphasize either the claimants' or the employers' rights in issues pertaining to voluntary quits. They might also differ in the degree to which they believe that monitoring work-search activities carefully is a necessary and appropriate activity of the UI agency. No direct measures of such general attitudes were available, but we included as a proxy variable the average score of each state's congressional delegation on the AFL-CIO index that rates voting records. It was expected that higher ratings (indicating greater support of labor interests) would be associated with lower denial rates.

C. The Data

The primary data used to examine the impact of the factors discussed above on denial rates were quarterly data by state (50 states and the District of Columbia) for the period from 1964 through 1981. The bulk of the data were derived from reports on claims activities submitted by the states to the Department of Labor. The variables that describe state laws were constructed from tables describing state laws which were published continuously in the *Comparison of State UI Laws* throughout the observation period. Thus, these variables describe not only current state laws but also how they have changed over time.

Several data items were not available for the entire time period. For example, data on the ages of claimants were available only for 1969 through 1981; they were used only when the models were estimated over this shorter time period. The data on program administration, the degree of workforce unionization, and the AFL-CIO rating of the congressional delegation were collected for a single year (1981). Thus, they were used only in a secondary analysis which examined the state-by-state differences that remained after the analysis based on the full 18-year data set was completed.

Several comments on the data summarized in table 2.4 are of interest. Comparing the four denial rates presented in table 2.4 with the data in table 2.1 shows that denial rates were generally lower in 1982 than for the 1964-1981 period. This finding applied particularly to the quit denial rate (which in 1982 was about 65 percent of the 1964-1981 average) and to the refusal-of-suitable-work denial rate (which was 0.8 for the entire period and 0.2 for 1982).[1] These differences may be due to the high unemployment experienced in 1982, since more detailed annual data show that the 1982 decrease in denial rates was a recent phenomenon that did not show up as part of a trend in the 1964-1981 data used for our analysis.

An examination of the detailed year-by-year data that underlie table 2.4 revealed that state laws on nonmonetary eligibility became stricter over the period from 1964 to 1981. For example, at the beginning of this period, about half of the states disqualified for the full duration of the unemployment spell those claimants who had quit jobs voluntarily. At the end of the period, 80 percent of the states imposed disqualification for the full duration. Similar changes occurred in penalties for misconduct separation and refusal of suitable work; the proportion of states that disqualify the claimant for the duration of unemployment increased over this period. Similarly, the proportion of states that restrict good cause for voluntary quit to job-related reasons and that require active work search also increased. However, little change occurred in the number of states whose laws qualified

Table 2.4
Means and Standard Deviations of Variables Used in the UI Nonmonetary Denial Rate Analysis[a]

Variable	Mean	Standard deviation
Dependent variables		
Quit denial rate	86.21	65.29
Misconduct denial rate	30.09	22.06
Not able or available denial rate	8.19	5.31
Refusal of suitable work denial rate	0.80	0.67
Independent variables		
Denial for voluntary leaving is for duration	0.61	0.49
Good cause restricted	0.53	0.50
Denial for misconduct is for duration	0.48	0.50
Suitable work	0.19	0.39
Usual work	0.16	0.37
Actively seeking	0.62	0.48
Denial for refusing suitable work is for duration	0.43	0.50
Wage replacement rate	0.35	0.05
Average potential duration	23.90	2.67
Extended benefits dummy variable	0.33	0.47
Insured unemployment rate	3.50	2.08
Percent insured unemployed in construction	18.35	10.13
Percent insured unemployed in manufacturing	36.51	16.21
Percent insured unemployed who are men	59.22	10.78
Percent insured unemployed age 55 and over[b]	16.53	6.46
Percent insured unemployed age 25 and under[b]	20.04	5.36
Minutes per unit for separation issue administration[c]	67.61	15.44
Minutes per unit for nonseparation issue administration[c]	38.94	5.24
Percent of separation issue determinations done within time standard[c]	67.88	19.93
Percent of nonseparation issue determinations done within time standard[c]	78.73	14.81
Percent of separation issue determinations judged to be of acceptable quality[c]	86.52	10.76
Percent of nonseparation issue determinations judged to be of acceptable quality[c]	90.98	10.14
Percent of labor force unionized[c]	21.36	8.51
Mean congressional AFL-CIO rating[c]	45.35	19.89

SOURCE: Most variables were collected from reports filed by the states with DOL on the operation of the UI system and published in *UI Statistics*. Data on recent time periods have not been published, and they were collected directly from the Unemployment Insurance Service. The data on administrative time and on the timeliness and quality of determinations were also collected from the UIS. Finally, the AFL-CIO rating variable was constructed from data reported in Michael Barone and Grant Ujifusa, "The Almanac of American Politics, 1984," *National Journal*, Washington, DC, 1983.

a. Unless noted, the means and standard deviations are for 51 states for the 1964-1981 period.

b. Variables available for the 1969-1981 period.

c. Variables available for 1981.

"able and available" requirements by restricting them to "suitable" or "usual" work.

D. Econometric Results

We tested the hypotheses on the determinants of nonmonetary denial rates by estimating models in which the four denial rates represented dependent variables, and in which state laws, other UI characteristics, and external economic factors represented independent variables.[2] The models were estimated with quarterly data by state for the 1964-1981 period for variables for which data were available for this entire period.[3] Models were also estimated to examine the influence of variables for which more limited data were available (see below). The estimation of these models supports the hypotheses on the effects of some of the factors used as independent variables, but also underscores the limitations of the data available for the analysis.

In the estimated model, some of the state law provisions on disqualifications and the stringency of requirements have the anticipated effects on denial rates. Denial for the duration of employment based on voluntary quit, job refusal, or misconduct has a negative effect on the denial rate, as anticipated. The effects of disqualification for the duration on the first two rates (for quit and job refusal) were statistically significant and sizeable—in both cases about 20 percent of the mean value for the respective denial rates. Limiting the definition of good cause for voluntary quits to employment-related reasons has the anticipated positive effect on the related denial rate and is significant. The other state law characteristics, which pertain to the use of "suitable" and "usual" as qualifiers of the able and available requirements and to work-search requirements, do not have significant effects.

Results of an analysis of the demographic characteristics of the unemployed population provided support for some of our hypotheses on the determinants of denial rates. The insured unemployment rate has a negative impact on denial rates, as expected, and has a particularly large impact on the refusal-of-suitable-work denial rate, as one might expect. Certain characteristics of claimants, such as the percentage of the insured unemployed in construction and manufacturing and the percentage who are male, have significant negative effects on denial rates.

However, the effects of the age structure of the unemployed population did not support our expectations. Higher percentages of younger workers (under age 25) tended to decrease denial rates for nonseparation issues, which was contrary to our hypothesis, and had no significant effect on denial rates for separation issues. Higher proportions of older workers had mixed effects, reducing misconduct denial rates and increasing the refusal-of-suitable-work denial rates.

The effects of variables that describe the generosity of UI benefits (average potential duration, the EB binary, and the wage-replacement ratio) are inconsistent in the estimated models. All three have statistically significant effects on at least some denial rates, but the signs of the coefficients are not always in the expected direction. In some instances, more generous programs appear to have a negative, rather than a positive, effect on denial rates.

Although the statistical analysis described in this chapter generally confirmed some of our hypotheses, the results remain somewhat inconsistent and suggest that other important factors are at work in the state UI programs and their environments which are not fully captured by the variables we defined or by the data available. One indication of the importance of those factors that are not included or not well represented in the analysis is the fact that the coefficients estimated for the state binary variables that were included in the models were statistically significant as a group, and that many individual state coefficients were also statistically significant. Thus, while other variables explain some of the cross-state variation in denial states, much of the variation can still be viewed as state-specific, or at least cannot be explained by the variables included in the regressions that used the data available for the entire 1964-1981 period.

In an attempt to enhance our ability to explain variations in state denial rates further, we undertook a secondary analysis of the state binary variable coefficients, using additional independent variables that were not included in the main analysis (again, because they were not available for the entire analysis period). The coefficients of the state binary variables are essentially a measure of the average residual variation for each state as compared with the excluded state. In the secondary analysis, these residual coefficients were used as the outcome variables. They were regressed against several variables that described UI administrative factors, the degree of labor force unionization, and the state congressional delegations' average ranking on the AFL-CIO rating of legislative votes. These variables were available only for one year, 1981. None of the administrative variables showed any significant effect on denial rates in this analysis. However,the level of unionization and the AFL-CIO ranking, when used separately in regression equations, did have some effect. The extent of unionization had a significant negative effect on denial rate residuals for separation and nonseparation issues, and the AFL-CIO rating had a significant negative effect for separation issues. These effects suggest that the political climate of the states can in some way affect denial rates.

The significant effects of state binary variables in explaining denial rate variation, as well as the limited ability of other variables to explain denial rates, confirm the importance of looking beyond the readily available published characteristics of the state UI programs and the state economies. In effect, we would like to be able to "measure" both the stringency of requirements imposed on claimants and the severity of disqualification penalties with greater subtlety than was possible based on simple distinctions of language in state laws. Moreover, we would like to gauge the importance of *effective* nonmonetary rules as they are applied, rather than as they are delineated by legislative intent. Thus, to carry out this type of analysis, we shifted from a quantitative analysis of data for all states to an intensive examination of how nonmonetary rules are administered in a small sample of states. The following chapters explain how we conducted this analysis and its conclusions.

NOTES

1. The 1964-1981 data set represents the average per quarter, while the 1982 set represents the average over an entire year. Averages based on quarterly versus annual data account for some differences among the rates, but they do not account for all of the differences.

2. In addition to the basic set of independent variables discussed above, we included both quarterly binary variables to control for several effects and state binary variables to control for any remaining state effects and to provide a convenient way to compare states. We also controlled for autocorrelation in the error term by state.

3. The estimated coefficients are reported in the tables appended to this chapter.

Chapter 2, Appendix Table 1
Denial Rate Econometric Estimates
1964 - 1981

(t-statistics in parentheses)

	Dependent variable			
	Voluntary leaving	Misconduct	Able and available	Refusal of suitable work
Constant	179.26*	67.86*	17.16*	1.708*
	(9.46)	(10.82)	(6.93)	(4.95)
Denial for voluntary leaving is for duration	-15.97*	–	–	–
	(-4.46)	–	–	–
Good cause	24.55*	–	–	–
	(4.51)	–	–	–
Denial for misconduct is for duration	–	-0.86	–	–
	–	(-0.79)	–	–
Suitable work	–	–	1.19	0.152
	–	–	(0.71)	(0.71)
Usual occupation	–	–	-0.61	-0.123
	–	–	(-0.49)	(-0.80)
Actively seeking	–	–	-0.32	–
	–	–	(-0.59)	–
Denial for refusal of suitable work is for duration	–	–	–	-0.173*
	–	–	–	(-3.42)
Average potential duration	-2.25*	-0.84*	-0.01	0.007
	(-4.37)	(-4.89)	(0.14)	(0.99)
Wage replacement ratio	-21.11	-35.54*	-6.97*	-0.766*
	(-0.90)	(-4.55)	(-3.46)	(-2.41)
Extended benefits	7.11*	2.59*	-0.03	0.023
	(4.42)	(4.81)	(0.22)	(1.05)
Insured unemployment rate	-1.08*	0.12	-0.29*	-0.073*
	(-2.35)	(0.74)	(-7.47)	(-11.72)
Percent insured unemployed in construction	-0.00	-0.10*	-0.03*	-0.004*
	(-0.04)	(-2.97)	(-4.34)	(-3.18)
Percent insured unemployed in manufacturing	-0.72	-0.33*	-0.03*	0.001
	(-10.37)	(-14.14)	(-5.02)	(1.32)
Percent men	-0.67*	-0.10*	-0.07*	-0.011*
	(-7.59)	(-3.34)	(-10.42)	(-9.35)
January-March	5.72*	2.18*	0.49*	0.090*
	(3.80)	(4.25)	(3.99)	(4.39)
April-June	17.18*	8.22*	0.75*	0.208*
	(15.92)	(22.17)	(8.77)	(14.24)
July-September	19.99*	6.96*	1.41*	0.091*
	(19.85)	(20.11)	(17.63)	(6.68)

Chapter 2, Appendix Table 1 (continued)

	Dependent variable			
	Voluntary leaving	Misconduct	Able and available	Refusal of suitable work
Alabama[a]	14.15	6.76	-3.84	-0.477
	(1.07)	(1.71)	(-1.47)	(-1.46)
Alaska	-14.81	-17.93•	-0.63	0.183
	(-1.12)	(-4.32)	(-0.39)	(-0.98)
Arizona	23.92	10.62•	6.53•	0.166
	(1.76)	(2.67)	(2.83)	(0.59)
Arkansas	3.56	7.52	-3.35•	-0.223
	(0.27)	(1.95)	(-2.09)	(-1.24)
California	10.47	-0.74	2.67	-0.056
	(0.87)	(-0.20)	(1.16)	(0.19)
Colorado	107.06•	52.39•	-0.08	0.128
	(7.82)	(13.34)	(-0.05)	(0.72)
Connecticut	-19.23	-1.01	0.42	0.073
	(-1.43)	(-0.27)	(0.18)	(0.26)
Delaware	-28.43•	6.97	-4.94•	-0.016
	(-2.16)	(1.86)	(-2.14)	(-0.06)
District of Columbia	14.43	35.63•	0.75	-0.437
	(1.13)	(9.03)	(0.33)	(-1.51)
Florida	0.76	7.56	-1.14	-0.043
	(0.06)	(1.89)	(-0.49)	(-0.15)
Georgia	74.29•	38.48•	-1.51	-0.388
	(5.31)	(9.41)	(-0.65)	(-1.36)
Hawaii	27.43•	4.98	1.80	0.318
	(2.22)	(1.29)	(0.78)	(1.12)
Idaho	1.66	-3.05	1.27	0.720•
	(0.13)	(-0.76)	(0.77)	(4.01)
Illinois	-5.81	2.82	5.26•	-0.048
	(-0.48)	(0.75)	(2.27)	(-0.17)
Indiana	18.10	4.50	-4.35	-0.098
	(1.33)	(1.11)	(-1.85)	(-0.35)
Iowa	74.23•	15.48•	-0.08	0.112
	(5.59)	(3.96)	(-0.04)	(0.41)
Kansas	7.40	18.30•	7.69•	0.169
	(0.58)	(4.75)	(3.16)	(0.55)
Kentucky	10.17	6.47	-4.32•	-0.198
	(0.84)	(1.69)	(-2.70)	(-1.12)
Louisiana	10.42	15.96•	-3.66	0.015
	(0.79)	(4.20)	(-1.59)	(0.05)
Maine	-12.03	-6.22	1.43	0.704•
	(-0.89)	(-1.61)	(0.55)	(2.22)
Maryland	47.57•	22.16•	-1.80	1.274•
	(4.01)	(5.95)	(-0.78)	(4.55)
Massachusetts	-10.01	-0.36	-4.41	-0.346
	(-0.79)	(-0.10)	(-1.70)	(-1.07)

Chapter 2, Appendix Table 1 (continued)

	Dependent variable			
	Voluntary leaving	Misconduct	Able and available	Refusal of suitable work
Michigan	25.73	2.42	2.48	0.303
	(1.84)	(0.60)	(0.95)	(0.93)
Minnesota	63.84*	10.43*	1.53	0.411
	(4.66)	(2.73)	(0.66)	(1.44)
Mississippi	–0.76	15.22*	-2.88	0.202
	(–0.06)	(3.86)	(-1.25)	(0.70)
Missouri	15.52	17.46*	-1.77	–0.046
	(1.16)	(4.38)	(–0.76)	(–0.17)
Montana	36.23*	–6.93	–0.28	0.043
	(2.63)	(-1.70)	(–0.12)	(0.15)
Nebraska	233.99*	39.89*	4.22	–0.456
	(18.29)	(9.94)	(1.83)	(–1.61)
Nevada	7.41	6.51	–0.12	0.474
	(0.58)	(1.63)	(–0.05)	(1.62)
New Hampshire	–4.24	4.35	1.60	0.670*
	(–0.33)	(1.18)	(1.03)	(3.84)
New Jersey	-24.05	0.47	1.38	–0.279
	(-1.82)	(0.12)	(0.59)	(–0.97)
New Mexico	31.74	28.45*	-1.05	–0.262
	(2.61)	(7.56)	(–0.45)	(–0.91)
New York	-2.57	-8.33*	5.93*	0.192
	(–0.22)	(-2.27)	(2.28)	(0.61)
North Carolina	-15.58	6.12	-5.57*	0.168
	(-1.15)	(1.59)	(-2.42)	(0.60)
North Dakota	24.74*	-9.14*	-1.20	0.265
	(2.03)	(-2.39)	(–0.75)	(1.53)
Ohio	16.65	16.89*	–0.26	–0.111
	(1.40)	(4.53)	(–0.17)	(–0.66)
Oklahoma	98.30*	31.01*	-3.58	0.335
	(7.15)	(7.90)	(-1.54)	(1.17)
Oregon	19.74	-3.92	-1.14	–0.236
	(1.65)	(-1.05)	(–0.64)	(-1.17)
Rhode Island	-6.61	–4.27	–0.62	0.402
	(–0.54)	(-1.09)	(–0.27)	(1.41)
South Carolina	85.61*	36.89*	-1.71	–0.190
	(6.88)	(9.24)	(–0.70)	(–0.62)
South Dakota	4.91	-12.53*	3.05	–0.155
	(0.38)	(-3.12)	(1.32)	(–0.54)
Tennessee	-20.02	9.85*	–6.91*	–0.276
	(-1.51)	(2.61)	(-3.01)	(-1.00)
Texas	77.69*	62.68*	1.17	0.429
	(5.45)	(15.33)	(0.51)	(1.47)

Chapter 2, Appendix Table 1 (continued)

	Dependent variable			
	Voluntary leaving	Misconduct	Able and available	Refusal of suitable work
Utah	30.10*	-3.06	3.04	0.744*
	(2.45)	(-0.80)	(1.33)	(2.61)
Vermont	22.77	-0.74	-5.42*	0.334
	(1.72)	(-0.19)	(-2.35)	(1.19)
Virginia	-4.27	3.82	6.40*	0.343
	(-0.35)	(0.99)	(2.78)	(1.24)
Washington	-10.87	-14.79*	0.96	-0.069
	(-0.90)	(-3.91)	(0.37)	(-0.22)
West Virginia	10.03	-2.27	-1.43	-0.052
	(0.72)	(-0.59)	(-0.55)	(-0.16)
Wisconsin	-12.39	6.90	-5.04*	0.363
	(-0.94)	(1.80)	(-2.19)	(1.33)
Wyoming	-6.93	-5.57	4.45	-0.390
	(-0.55)	(-1.42)	(1.91)	(-1.37)
R^2 statistic	.45	.48	.39	.38
F statistic	132.50	166.61	80.20	70.72
Degrees of freedom	(63, 3609)	(61, 3610)	(64, 3608)	(64, 3608)

NOTE: These equations were estimated with a fixed-effects model. Similar results were obtained with a random-effects model.

*Statistically significant at .05 level for a two-tailed test.

a. Pennsylvania is the omitted category in the set of state binary variables.

3

Process Analysis Methodology

Determining nonmonetary eligibility in the unemployment insurance program is a complex undertaking. A wide range of legislative, regulatory, administrative, and personnel factors can potentially affect the ability of a state to ensure that UI claimants comply with nonmonetary requirements and that those who do not are denied benefits.

The regression analysis reported in the previous chapter is the first step in explaining the factors that contribute to the variation in the rates at which states deny benefits to UI claimants for four nonmonetary reasons—voluntary quits, discharge for misconduct, inability to work or unavailability for work, and refusal of a job offer or referral. However, as was recognized in the design of this study, the regression analysis contains certain inevitable shortcomings that limit the extent to which it can explain the impact of state UI agency operations on observed denial rates.

The major shortcoming of the regression analysis is that the readily available data on program administration are limited in their extent, type, and precision. In the analysis, three dummy variables represent the severity of penalties imposed for violating nonmonetary eligibility rules, and four others represent the latitude allowed to claimants in choosing to seek or accept work or to leave a job. All of these variables reduce variations among the states to binary values, which oversimplifies the true variety of state penalties for the violations and requirements imposed on claimants. Most seriously, perhaps, the values of the variables used in the regression analysis are drawn only from the state laws that pertain to unemployment compensation. The rules governing UI nonmonetary eligibility are a product of state laws, elaborative regulations, formal policy and procedural memoranda and handbooks, and informal rules of thumb used by the UI agencies. States with apparently similar legislative provisions may in fact be applying quite different rules because of the substantial divergence in regulatory provisions and practice. Conversely, states with apparent differences in legislative language may be observing actually very similar nonmonetary rules because they have placed different levels of substantive detail in their legislation. To the extent that this is true, regression analysis variables that describe state rules do not adequately represent effective policies.

Despite these limitations, the regression analysis suggests several systematic relationships between the policy variables that describe the state UI programs and the rates at which claimants are disqualified for nonmonetary reasons. With respect to voluntary quits and refusals of work, states that impose disqualifications for the duration of unemployment, as opposed to some fixed term, tend to have lower denial rates. States which restrict their definitions of good cause for leaving a job to reasons pertaining directly to the employment situation tend to have higher rates of denial for voluntary leaves relative to states which allow more personal reasons as a valid justification. However, these regression results do not suggest the mechanisms by which these differences in state policies might affect denial outcomes.

The process analysis component of this study is designed to investigate state policy and administrative practices in greater detail in an attempt to (1) describe more clearly and precisely the differences among states with respect to policy and administration, and (2) discover *how* the laws, regulations, and administrative practices which create the "effective policy" affect patterns of nonmonetary eligibility and denial rates. This chapter describes the methodology used in the process analysis.

Again, to conduct the process analysis, project staff selected six states for intensive site visits, and collected data in those states from relevant documents and personal interviews in state and UI local offices. The purpose of the process analysis design was to gather information about the full range of factors that determine the policies actually implemented, and to do so by examining the UI system in each state from a variety of perspectives. The remaining sections of this chapter describe the process by which the sites were selected, the data that were to be collected during the site visits, the data collection approach, and the limitations with this methodology.

We chose six states for the study, which represented both the maximum number feasible with the resources available for the study and the number we felt was necessary as a basis for drawing any generalization about the implications of alternative statutes, policies, and procedures. However, the number does suggest certain limitations with the study. In particular, the sample is not large enough to enable us to select a set of states and sites within states that would truly be representative of the national pattern of nonmonetary eligibility standards. Thus, the analysis cannot provide statistically reliable conclusions about monetary eligibility standards. It does, however, enable us to point out patterns that may suggest avenues for state policy development.

A. Site Selection

Site selection for the process analysis occurred in three stages. First, we developed a set of criteria for selecting states in consultation with the Department of Labor and carried out the analysis required to derive a list of recommended states. Second, the list of recommended states was revised because the peculiarities of some of the recommended state programs might have limited our ability to generalize about UI programs in other states. Third, based on these first two stages, a final list of states was obtained, criteria were defined for selecting local sites within the states, and arrangements were made for selecting the local sites with state officials.

Obtaining the cooperation of the states and the participation of individual respondents during the site visits required assurances of anonymity. Part of the information we wanted to collect in the states pertained to problems in program administration, departures in administrative practice from policies prescribed in legislation or regulations, and problems with UI agency personnel, structure, or resources. Given the sensitivity of these issues and the relative ease with which the relevant agency respondents could be identified from even a generic description of their roles, we found it necessary to guarantee that not only individual respondents but also the participating states remain unidentified in this report. By necessity, the discussion of site selection in this chapter, and a discussion of the data collected and the conclusions reached in later chapters, must be kept somewhat less specific than would otherwise be the case. Despite this limitation, we have attempted to be as clear as possible about how site selection fits in with the research design, and about the effects of state level policies and implementation decisions on important program outcomes.

Site Selection Criteria and Site Recommendations

The first criterion used to select states was the extent to which actual nonmonetary denial rates differed from rates predicted by the regression model described in the previous chapter.[1] Since the purpose of the process analysis was to attempt to explain the state-to-state variation in denial rates that was left unexplained in the regression analysis, we chose to focus the process analysis on states in which actual denial rates diverged considerably from what the regression model predicted. To implement this criterion, we first calculated the regression-based predictions for each of the four denial rate dependent variables for all states in 1981, the last year for which we then had state performance data. These predictions are based on the regression coefficients estimated for the full 1964-1981 period (see Section D of chapter 2) and on state program characteristics and external economic variables for 1981. We then calculated the difference between the actual denial rate in 1981 (of each type for each state) and the predicted rate. For each of the denial rate variables, states were then ranked according to the size of these differences, from the most positive difference (i.e., in which the actual rate exceeded the predicted rate by the greatest amount) to the most negative difference (i.e., in which the predicted rate exceeded the actual rate by the greatest amount). The states that were considered for selection fell within the top or bottom quarters of this rank ordering for any of the dependent variables, with preference given to states that fell more consistently within the top or bottom quarters across all four denial categories.

To arrive at an initial list of states, we applied an additional set of criteria. First, we verified the robustness of the ranking of states for each type of denial rate by deriving alternative rankings based on (1) differences between actual and predicted values for the entire 1964-1981 period and (2) the actual 1981 denial rates. Second, to ensure some geographic diversity, we attempted to use DOL region as a stratifying factor. Third, we considered a number of factors that might have indicated whether some states were experiencing extraordinary pressures on the UI system of quite different magnitudes than experienced by most other states and, hence, should have been excluded from the sample. Such factors included the local and state economic climate, the UI claim load, and the rate of increase in claims filed over the past several years. Fourth, we examined the basic experience rating criteria used by the states with respect to firms, so as not to include states that had very unusual practices. Finally, we placed some priority on including states with a wide range of denial rates from high to low and a variety of legislative provisions ranging from what could loosely be termed "liberal" (less demanding on claimants) to "stringent" (more demanding requirements and penalties for claimants).

After reviewing these selection criteria, we selected 20 states for further consideration. These could be characterized as having large positive or negative differences between predicted and actual denial rates for both types of separation issues (quits and misconducts) and for both types of nonseparation issues (able/available and refusal of suitable work). For each state, large positive differences occurred for separation and nonseparation issues, large negative differences occurred for each, or a combination of both large positive and negative differences occurred. In addition, we attempted to pair states that had roughly opposite denial rate patterns, but that were reasonably similar otherwise.

Revision of Recommended Site List and Characteristics of Selected States

Officials in the Department of Labor reviewed the initial list of states, and the list was subsequently revised. Some states on the original list were deleted because, for instance, they (1) were too small and were thus unrepresentative of the typical state experience, (2) had a unique legal provision concerning work-search activity, (3) used a method for counting separation-related denials that differed from the method used in most other states (which would pose difficulties in cross-state comparisons), or (4) had recently amended their laws governing key nonmonetary eligibility procedures. After these deletions, five states were added to the list—states that had been excluded from the initial list because they were in geographic areas already represented. The final list contained twelve states—six designated as primary sampling states on the basis of our criteria, and six designated as a back-up sample. Half of each sample consisted of states that showed generally large positive differences between actual and predicted denial rates, and half consisted of states that showed generally large negative differences.

The final step in selecting states was to gain their cooperation. Three of the six primary sample states agreed to cooperate in the study, as did three of the four secondary sample states that were contacted. Thus, 60 percent of the states which were contacted agreed to cooperate, with refusals concentrated in states with generally low denial rates (three of the four). The problem of selection bias associated with the refusals raises some concern about the generalizability of conclusions reached in the process analysis, and adds to cautions already voiced about our ability to generalize from the study findings.

Although the identity of the six states selected must remain confidential, it is possible to report some of their characteristics. The states varied in terms of the divergence of actual denial rates from predicted denial rates. In two states, actual denials greatly exceeded the predicted rates for two types of denials; in another state, a large positive difference existed for one type of denial, and a large negative difference existed for another. Two states exhibited large negative differences for two types of denials, and one state exhibited a large negative difference for one type of denial. Generally, those states in which actual denial rates greatly exceeded their predicted rates also ranked high among the states in actual denial rates, and states which exhibited large negative differences also ranged in the lowest quintiles for all four types of denial rates.

The selected states also represent a fair degree of geographic diversity. They include one western state, one southern state, two midwestern states, and two northeastern states.

Selection of Local Sites

In addition to collecting documents from and conducting interviews with persons who are responsible for the UI system at the state level, the research design called for a similar effort in two local offices in each state—one in an urban area and one in a rural area. The local offices were selected in cooperation with state officials once a state's participation in the study was assured. We sought local offices that exhibited a pattern of denials for nonmonetary eligibility issues that was similar to the pattern of the state as a whole. We attempted to screen out offices that, according to knowledgeable state officials, were exceptionally good or bad in areas pertaining to nonmonetary eligibility, or that were undergoing a transition in their operations or had unusual claims loads (e.g., a high proportion of interstate claims or seasonal layoffs).

B. Description of Research Data

The process analysis design called for collecting and using information on four broad sets of factors that, it was hypothesized, could affect the rates at which claimants were denied benefits for nonmonetary reasons: the regulatory definition of the UI program; the characteristics of the operational system which implements legislative and regulatory policy; the characteristics of the personnel who staff the UI agency; and the external economic and political factors which could affect agency and individual staff behavior.

Regulatory Context

The process analysis data collection focused primarily on the substance, importance, and use of UI regulations. First, the relationship between statutes and regulations can be important. In states with detailed, specific legislation, it might be expected that regulations would very closely reflect the apparent intent of the legislation. However, in other states where statutes provide an incomplete definition of the UI program, the substance of the regulations may suggest a policy direction that in some respects appears to differ from the legislation, or may provide a clear policy direction which is absent in the law. An analysis of the net effect of legislation and regulations in defining the strictness of requirements imposed on claimants and the severity of penalties for violating eligibility requirements represents an important step toward improving the distinctions among state programs that are incorporated in the regression analysis.

The importance and use of UI regulations were to be assessed on the basis of the process analysis data. An examination of the regulations themselves could reveal their volume and detail, and comparisons between the regulations and statutes could indicate the extent to which policy definitions are arrived at in regulatory language and through the underlying agency decision process, as opposed to the legislative process. The specificity and detail of the regulations were also of interest since they determine the extent to which the regulatory definition can be used as a basis for controlling the consistency with which the policy is implemented. States with very specific and detailed regulations could rely on them as procedural guidelines and use them as training materials, thereby promoting uniform policy implementation. States with very brief or general regulations could be expected to rely more heavily on interpretive memoranda or bureaucratic rules of thumb and tradition to define and enforce policy at the local level.

Characteristics of the Operational System

With any given policy on nonmonetary eligibility, it can be expected that the ability of a UI agency to implement the policy and enforce associated rules can affect observed denial rates. A variety of agency characteristics were thus included in the data collection plan. First, we wanted to examine the formal organizational structure under which the UI program operates, including such factors as the links between UI and employment service staffs, the nature of state and local coordination, methods for conveying policy information and interpretations from policy staff to line staff and for monitoring performance, and the manner in which the organizational structure might contribute to or detract from managerial control in general. Also of interest were the procedures used at the local level to carry out the functions by which nonmonetary eligibility policy is executed: how determination issues and potential issues are detected, how information on claimant behavior is reviewed and assessed, and how information on questionable situations is used to prompt a later examination and possible definition of determination issues. These procedures define the roles and responsibilities not only of claimants and employers but also of the agency. Together, the organizational structure and local office procedures define the processes of detection, fact-finding, and determination which constitute the essential components of enforcement.

Personnel

The characteristics of agency staff involved in applying UI policy were also included in the process analysis data collection plan because of their possible impact on the thoroughness and consistency with which UI policy is implemented. First, we were interested in the preparation of line staff for their jobs: the educational level of claim interviewers and adjudicators, experience in a specific job or in a variety of relevant jobs they might have held, and the type and amount of job-specific training they received. We were also interested in any information that might indicate the attitudes of staff towards the policy guidelines that they were asked to adhere to, as a possible measure of underlying support for policy goals. Finally, we were interested in indications of the consistency or inconsistency with which line staff understood and interpreted the policies they applied.

External Factors

Although the regression analysis included certain variables that describe each state's economy and the demographic characteristics of the unemployed population, we also focused some attention in the process analysis data collection on the external political and economic factors which might enhance our understanding of the development and application of a state's nonmonetary eligibility policies. No systematic attempt was made to collect quantitative data, but efforts were made in site interviews to obtain respondents' interpretations of the manner in which external factors might be affecting their agency's operations. Of particular interest were such factors as the unemployment rate at the state and local levels, the industrial composition of the economy and the significance of employment patterns, the types of job skills and experience found among the claimant population, and the possible impact of political pressure groups (e.g., unions or chambers of commerce) on state policy and its application.

Process Analysis Data Priorities

The order in which these categories of process data have been presented also represents in general terms the relative priorities assigned to them in this study. These priorities reflect the importance and usefulness of each of the broad topics in refining the information represented by the program-related variables in the regression analysis. Details on UI regulations and the procedures and organizational methods used to implement them enhance the regression variables most directly. Conversely, staff characteristics and external factors may pertain only indirectly to the program variables in the regression analysis, to the extent that they may also have some effect on administrative effectiveness or on the demands placed on the UI system.

The priorities also reflect a judgment about what types of information are most appropriately collected in extensive site interviews, and they represent the best use of the limited resources available for the process analysis component of the study. In general, we focused primarily on obtaining respondents' interpretations of policies and procedures, rather than on obtaining precise objective data which are best collected by other means. For instance, we devoted little attention to collecting systematic data on the educational levels or experience of staff, objective data which described agency rates of determinations, denials, appeals, or other processes, or demographic statistics. To the extent that project resources allowed us to collect such data, they were collected for the regression analysis and incorporated in that part of the project.

C. Data Collection Methods

Data were collected from three sources in each of the six sites: relevant policy and procedural documents; agency personnel; and UI claimants.

A critical first step in each site study was to conduct a detailed examination of state statutes, regulations, and documents that described agency operations, including handbooks, organizational charts, and public information brochures. Statutes and regulations were obtained before the site visits whenever possible, so that project staff could develop their understanding of the basic policy framework and identify issues that would be emphasized in site interviews.

The most extensive data collection effort was a series of interviews conducted with agency officials and staff in each site. Variations in program roles created some differences across states in the number of interviews and the titles of respondents. However, our general objective in all states was to interview individuals at the state level who were familiar with state UI laws and regulations and with overall state program management. At the local level, we wanted to interview respondents who were familiar with the operational interpretation of state policy, the details of the adjudication process, local coordination between UI and employment service staff, and the intake and claims processes.

Site visits were conducted between May and September 1983, and each lasted approximately four days. Site visits typically included interviews with three or four state office respondents over the course of two days. The state-level respondents included individuals who are responsible for the overall management of the UI benefits and employment service units, the supervision of the adjudication process, and the supervision of local office operations. Local office interviews typically required one full day at each of the two offices selected in each state. In the local offices, our primary objective was to conduct interviews with individuals who were knowledgeable about the nonmonetary determination process, employment service operations, and general UI claims processing. The selection of respondents depended largely on the complexity of the supervisory structure in the local office. In larger offices, our primary respondents were the chief of the adjudications staff and the employment service manager. In smaller offices, we interviewed the office director if that person had a detailed knowledge of the determination process. In all of the local offices, we also interviewed other staff who were particularly knowledgeable about aspects of the determination process or claims processing.

In addition to the information obtained from local office staff, Mathematica Policy Research project staff examined a small sample of case records which described nonmonetary determinations in the previous year. This examination improved our understanding of how decisions are documented and how closely individual decisions reflect the policies and procedures described by program documents and agency staff.

A third source of data for the process analysis was a small set of interviews conducted with UI claimants who had gone through a nonmonetary determination in the previous year. However, this data collection effort contributed very little to the process analysis. The design of the project called for conducting about 10 claimant interviews by telephone in each state, a sample size that clearly could not provide any assurance that the responses would be representative of the general population of claimants who had experienced determinations. Nevertheless, it seemed that such interviews might yield some insights which would help us interpret other information obtained for the process analysis. In the end, however, the interviews were of limited value for a number of reasons. First, the limited resources available for claimant data collection precluded a very extensive effort. Since the address information of sample members was quite old, the search for current telephone numbers proved difficult. A significant portion of the rural sample in some states had no telephone service. In the end, we completed fewer interviews than even the small number we had hoped to complete. Moreover, the specific events we asked the respondents to comment on (i.e., a specific determination and/or appeal) had in some cases occurred so far in the past that the respondents could not provide the detailed information we had hoped for. If information from claimants were intended to serve as a central data source of a study, it is clear that a much larger and more timely data collection effort would be necessary.

D. Strengths and Limitations with the Process Analysis Methodology

The process analysis approach has proved to be extremely valuable in enhancing our understanding of the factors that contribute to variations in nonmonetary denial rates. The methodology described in this chapter allowed project staff to cover a wide range of potentially interesting and important information, placing emphasis in each site on those factors that seemed most relevant to outcome patterns.

Along with these advantages, of course, are certain limitations imposed by the methodology itself. The intensive effort required in each site limited our study to six states. Reliable patterns of relationships between regulatory and administrative factors and denial rates are therefore difficult to establish. In fact, the relationship between cause and effect is likely to be peculiar to each state. We can hope to identify a variety of program features that seem to affect outcomes, but not to confirm the impact of particular features across states.

Another problem encountered in applying this methodology is that, although a wealth of information can be gathered, only some of it can be organized in ways that will yield insights into the research issues of interest. We have found, for instance, that an examination of state regulations and the operational characteristics of state agencies has contributed most to our understanding of determination outcomes, but that the information we obtained about external factors and staff characteristics was difficult to compare across states and to use as a basis for drawing any causal inferences.

The approach used to collect most of the site information (i.e., interviews with agency personnel) also has certain limitations. On certain topics, such as interpreting regulations and defining procedures used in local offices, staff perceptions provide direct evidence on the types of variations in UI administration that might be expected to influence denial rates. However, the comments of staff about certain statistical patterns of claimant behavior or agency operations must be treated much more cautiously. Such comments do represent attempts to provide objective quantitative data and can prompt the investigation of available statistical data, but without verification they cannot be used as valid evidence for the process analysis. Thus, given the lack of resources for detailed agency studies, our analysis placed less emphasis on certain impressions or speculations offered by respondents.

The requirement that we preserve the anonymity of the participating states has also imposed something of a limitation on the study. Data must be presented with some intentional reduction in their specificity.

Despite these limitations, the process analysis has helped us establish some clear patterns of variation among the states and to identify the ways in which these variations affect denial rates. Chapter 4 describes the determination process and the range of variation observed in the major aspects of that process. Chapter 5 then presents our interpretations of the relationships between the characteristics of the determination process and denial rates.

NOTE

1. The coefficients of the state binary variables in the regression models measure the differences between the actual and predicted rates.

4

The Determination Process

State Characteristics

A three-step process leads to the denial of UI benefits for nonmonetary reasons. In the first step, the agency defines and imposes the nonmonetary eligibility requirements for the receipt of benefits; these requirements define the difference between claimants who should be considered eligible if they file for benefits and those who should be denied benefits. In the second step, the agency identifies potential determination issues. To carry out this step, the UI agency must follow procedures to detect situations that must be investigated and adjudicated. In the third step, the agency assembles information on identified determination issues, considers the facts, and formulates a determination decision. The cumulative effect of these three steps determines the observed rates of nonmonetary denials.

To understand the variations in denial rates across states, we must examine each of these stages in the determination process individually. At one stage, a state may appear to pose stringent requirements for claimants, yet, at another stage, its rules or procedures may be quite tolerant of a wide range of claimant situations and behavior. The six states chosen for the process analysis clearly illustrate the importance of determination rates as factors in overall denial rates, as well as their variability. Table 4.1 presents the national quintile ranking of the six states for the frequency of determinations and the overall denial rate.[1] As pointed out in chapter 2, even in states that exhibit very high rates of denials as a percentage of determinations, it is the determination rate—the number of determination decisions per 1,000

Table 4.1
Components of 1982 Nonmonetary Denial Rates

(Quintile ranking among all states)

	Determinations per 1,000 contacts[a]				Denials as percent of determinations				Denials per 1,000 contacts			
	Quit	Mis-conduct	Able/available	Job refusal	Quit	Mis-conduct	Able/available	Job refusal	Quit	Mis-conduct	Able/available	Job refusal
State 1	2	1	1	2	5	4	3	4	2	2	1	2
State 2	2	3	4	2	4	4	1	4	3	3	2	3
State 3	3	3	5	4	1	1	1	1	2	1	5	2
State 4	5	5	5	3	1	4	1	5	5	5	5	4
State 5	5	5	1	5	4	1	5	2	5	5	5	5
State 6	5	5	4	3	3	1	5	3	5	5	5	3

NOTE: Data for this table are derived from DOL/data 57B for calendar year 1982, as reported in ETA-207, Tables 57B, 58B, 59B, 60B, 61B, and 62B. Ranking includes 50 states plus the District of Columbia. Quintiles are defined as including ranks 1-10, 11-20, 21-30, 31-40, and 41-51.

a. For separation issues (quit and misconduct), ranking is based on rates per 1,000 new spells of insured unemployment; for nonseparation issues (able/available and job refusal), it is based on rates per 1,000 weekly claims.

claimant contacts—which most clearly determines the overall denial rate. The six states are numbered 1 to 6 in approximately the order of their overall denial rates. Behind this simple ranking are different patterns of determination and denial rates. State 3, for instance, ranks relatively low in the rate at which determination issues are identified, but very high in the rate at which identified issues lead to denial. State 1 ranks rather high in identifying determination issues, but quite low in the rate at which they become denials. State 4 ranks generally low in identifying determination issues, but displays quite divergent rates for denials, ranking very high for the voluntary quit and able/available reasons, but very low for the misconduct and job refusal reasons. Explaining these different patterns is an important objective of the process analysis.

This chapter provides a foundation for explaining these varied patterns of determination and denial rates by comparing the ways in which the three stages of the determination process are accomplished in the sample states. Section A examines the effective nonmonetary eligibility requirements in each state, based on the provisions of legislation, regulations, and operational rules. Section B describes the variation in methods used by the states to detect determination issues, and Section C discusses the information we obtained on the fact-finding and determination decisionmaking process itself. These three sections provide some basis for delineating *what* the states do in each of the three steps of nonmonetary determination. In the site visits, we also explored a range of agency characteristics that might help explain *why* they do those things. Section D discusses these factors and the information we gathered which appear to distinguish one state from another.

This chapter focuses primarily on the differences among the states in terms of eligibility requirements and their methods to detect determination issues. It is along these two dimensions that we were able to construct the clearest and most complete comparison of the six states, and along which differences among them emerged most clearly in the analysis. We focus less on the fact-finding and decisionmaking process, as well as on agency characteristics that might affect the overall determination process. On these topics, information derived from the site visits was less indicative of clear patterns. Although certain characteristics and problems described by respondents are worth noting, we generally found that the information was less helpful in explaining the pattern of determination and denial rates.

A. Eligibility Requirements

In the site visits, Mathematica Policy Research (MPR) staff examined statutory and regulatory language and obtained summaries and interpretations of eligibility requirements from interview respondents. Thus, the eligibility requirements described in this section are the "effective rules"—the rules as they are applied in practice.

In presenting state characteristics in this chapter, we make no attempt to convey an overall impression of each state's UI program or to interpret how program characteristics affect denial rates. Instead, we simply portray the range of approaches followed for specific aspects of the nonmonetary determination process. Chapter 5 will reassemble this detailed information in summary descriptions of each state, in an attempt to point out the ways in which the program rules and operations in each state lead to its pattern of denial rates, and to draw general conclusions from a broad review of all six states.

Separation Issues

Rules regarding separation issues are intended to define the circumstances under which claimants are to be considered responsible for their own unemployment, and the extent to which they should be penalized for the actions which led to their unemployment. The rules in all states distinguish between situations in which the claimant voluntarily leaves a job and situations in which the claimant is discharged from work. They represent an attempt to define the circumstances under which claimants who quit did so "without good cause" and whether they were discharged for misconduct. Both quitting without good cause and being discharged for misconduct are grounds for benefit denial.

Voluntary Quit. All six states have eligibility requirements which allow claimants to receive benefits after quitting a job if they can demonstrate that their departure was prompted by the actions or behavior of the employer. Although the level of regulatory detail and the language used to describe employment-related reasons vary, the six states seem to define a common set of employer actions that are acceptable reasons for quitting—such reasons as an employer's breach of an employment contract, verbal or sexual abuse or harassment, mandatory retirement, violation of health or safety standards, employer changes in wages or work conditions to levels generally unacceptable in the occupation, and various infringements on an employee's labor rights.

However, the states do vary in the extent to which personal reasons for leaving a job are considered "good cause" for quitting. States 1, 2, and 5 use the most liberal definition of valid personal reasons. These states define "compelling personal reasons" which would justify a voluntary quit, including such reasons as excessive commuting distance, having to care for a household member who is ill, pregnancy, avoiding a transfer out of the area, and having to accompany a spouse whose job requires moving. State 6 defines other acceptable personal reasons, including a desire to avoid "bumping" fellow workers in a layoff situation, health reasons, accepting other employment, and shortened hours of work over a two-week period. Among these states, it should be noted that the regulations in States 1 and 2 provide extremely detailed definitions of the circumstances that should or should not be considered good cause. The level of specificity in the regulations might be expected to limit the staff discretion that can be exercised in identifying issues and making determination decisions.

States 3 and 4 define allowable cause for voluntary quit more restrictively. State 4 allows no personal reasons at all; only reasons that are "attributable to the employer" can justify a voluntary quit and lead to the award of benefits. The rules of State 3 are also restrictive, in that they call for the denial of benefits unless the voluntary quit is for "good cause attributable to the employer." State 3, however, stipulates that "valid personal circumstances" for a quit, if demonstrated, can justify a milder penalty.

This description of state rules on acceptable reasons for voluntary quits illustrates how the detailed examination conducted for the process analysis improves upon the data incorporated in the regression analysis. Based on a simple classification of state statutes, States 1, 2, 4, and 6 would be considered states that restrict the definition of good cause to reasons connected with the work or attributable to the employer; States 3 and 5 would be considered states that do not. However, based on the details of state regulations and practices, we found that States 1, 2, and 6 also allow claimants to be awarded benefits on the basis of personal reasons that do not pertain to problems with either the work itself or the employer.

Misconduct. In all of the sample states, claimants are awarded benefits if they are laid off by the employer because of a lack of work or are terminated for poor performance. However, if the employer discharges an employee because of misconduct, the claimant will be considered responsible for the loss of the job and will be denied benefits. Although the states vary in their language on misconduct, several themes consistently emerge. The employer must demonstrate several facts about the employee's behavior and about the employer's response which led to the discharge. The employer must show that the employee's action or behavior indicated a deliberate or negligent disregard for the employer's interests, and that the behavior had an adverse effect on the employer. The employer must also show that the employee was aware of the employer's policies when they were violated, or could reasonably have been expected to be conscious of them. Finally, the employer must demonstrate that it reasonably and consistently applied the rules whose violation led to the discharge, gave the employee some warning before the discharge, and made an effort to resolve the problem with the employee before the discharge.

However, in two respects, certain states can be distinguished from the others in their definition of misconduct. The first is whether the state uses a single definition of misconduct, or distinguishes between different degrees of misconduct. States 1, 4, 5, and 6 use a simple definition of misconduct and apply a uniform penalty for all cases of misconduct. State 3, however, has defined two levels of misconduct. "Gross misconduct" consists of illegal acts against the employer, a series of work rule violations, or actions that indicate malice towards the employer. "Misconduct connected with work" is a vaguer but definitely broader definition of actions by the employee that do not necessarily constitute either (1) the clear intent or disregard associated with most state definitions of misconduct or (2) a demonstration of the employer's efforts to resolve the problem. In fact, interview respondents in State 3 suggested that any discharge that was not caused by lack of work, but which was based on a violation of work-site rules, would normally be classified as misconduct connected with work. State 2 also defines two levels of misconduct. "Normal misconduct" resembles the definition of misconduct used by most states, but "gross misconduct" consists of an action by the employee which would constitute an indictable offense and of which the employee has been proved guilty either by written admission or by conviction.

A second, more subtle variation in misconduct definitions is the degree to which the states establish misconduct on the basis of the employee's failure to work up to standards set by the employer or to comply with job requirements. The rules of all the states are clearly designed to prevent assigning the misconduct definition to an employee if that person is simply unable to measure up to the demands of the job. However, State 1 is noteworthy in that it imposes a slightly more demanding standard for employees. It need not be demonstrated that the employee deliberately wronged an employer. An employee's actions can be considered to represent misconduct if they show an indifference to or a neglect of duties established by the "employer contract," as opposed to a more abstract definition of the employer's interests from the state's perspective. Moreover, a claimant can be discharged for misconduct if his or her present performance does not match past productivity and thus indicates current negligence or indifference. Although formal policies in other states refer to such employee behavior, State 1 was the only one we visited which seems to deny benefits on such grounds.

Penalties for Separation Issues. In all states, claimants who have been discharged for misconduct or who quit are denied benefits, but the penalties associated with the denials vary. In general, the states use the following separation denial penalties:

- *Disqualification for Duration of Unemployment.* If this provision is included in the penalty, disqualified claimants would not be eligible for UI benefits until they become re-employed and subsequently lose their employment for valid reasons.

- *Disqualification for Defined Period.* If claimants are not disqualified for the duration of unemployment, they are disqualified for a specified period, but need not become re-employed and subsequently unemployed before receiving benefits.
- *Minimum Standards for Re-employment.* When a claimant is disqualified for the duration of unemployment, it is expected that a substantial period of new employment elapse before a subsequent claim is filed. Some states define this period in terms of the amount of money that must be earned in the new employment, either as an explicit minimum dollar amount or as a multiple of the weekly benefit amount which the claimant would receive if eligible. Other states define the period in terms of the length of time employed.
- *Loss of Wage Credits.* Disqualification for the duration of unemployment delays a claimant's ability to draw upon wage credits. Benefits based on wage credits are lost only if because of the delay before requalification a claimant reaches the end of the benefit year before exhausting benefits from the base period. However, some states impose penalties which also provide for the loss of wage credits.

The severity of a state's penalties depends to some extent on the circumstances of individual claimants. The employment history, wage level, and weekly benefit amount of each claimant would determine whether the claimant would find it more difficult to requalify for benefits in new employment under a requirement stated in dollar terms or as a multiple of the weekly benefit amount. Nevertheless, it is possible to provide some rough categorization of the six sample states in terms of the severity of penalties. States 1 and 5 could be viewed as having the mildest penalties, disqualifying claimants on separation issues only for the duration of unemployment and until they have earned, respectively, five and six times the weekly benefit amount. State 3 imposes somewhat more severe penalties. Claimants must earn 10 times their weekly benefit amount in new employment if they have quit employment without good cause or have been discharged for gross misconduct. However, a reduced penalty is defined for "voluntary quits with valid circumstances" and for "misconduct connected with work." In such cases, claimants are disqualified for an elapsed period of 5 to 16 weeks, with the exact period determined individually (and apparently somewhat objectively) for each case. In such cases, no re-employment requirement is established. Penalties in State 2 are still more severe, since all disqualified claimants must earn 10 times their weekly benefit amount in new employment before requalifying.

States 4 and 6 could be viewed as imposing the most severe penalties for separation denials. They require both minimum earnings and a minimum period of time in new employment for requalification. State 4 requires claimants to work for five weeks and to earn 10 times their weekly benefit amount for requalification. State 6 requires claimants to work for four weeks and to earn a minimum of $200 in order to be requalified after having been denied benefits for voluntary quits. Claimants who are denied benefits because of misconduct in State 6 are disqualified for three weeks, but also lose all wage credits accrued from the employer who discharged them, a provision which could be very severe for an employee whose base-period wage credits came entirely or primarily from that employer.

Nonseparation Issues

Unemployment insurance claimants can be denied benefits for two reasons not pertaining to the circumstances surrounding their termination from their last employment: (1) if they are unable to or unavailable for work, or (2) if they refuse a job offer or a referral to a potential employer without an acceptable reason. For "able and available" issues, benefits will be denied for any week in which the claimant is considered to be unable to or unavailable for work. Penalties for refusal resemble those imposed for separation issues.

Able and Available. To be eligible for UI benefits in any state, the claimant must be able to work from the standpoint of physical and mental health, and must be available for and ready to accept work. Claimants must also demonstrate a real connection to the job market to support the claim that they are able and available for suitable work; most states require evidence of job search to indicate such exposure to the job market.

State rules on "able and available" requirements vary along several dimensions, however. First, states differ in how they define the types of work that claimants must be able to perform to be considered "able." Second, states differ in the latitude they allow claimants in deciding what constitutes "suitable" work and how this latitude changes as the spell of unemployment continues. Third, the states set different standards about what portion of a week a claimant may be unavailable for work and still not be denied benefits for that week. Finally, they differ in how they define the work-search activity in which claimants must engage to remain eligible.

To varying degrees, the rules of all six of the sample states acknowledge that health problems which interfere with work in the claimant's usual occupation do not necessarily imply that the claimant is unable to work. States 2 and 5, for instance, require simply that the claimant be able to perform some gainful work that exists in the job market. State 1 requires that the claimant be able to perform any type of work for which he or she would be reasonably suited by virtue of experience and skills, but it clearly does not require the ability to work in the claimant's usual occupation. As an operating guideline, State 6 requires that claimants be in sufficient health to perform 15 percent of the jobs in the market, although how such a refined standard is applied is unclear. No information on the definition of ability to work was obtained for State 4, which may simply reflect the absence of a precise rule.

State 3 uses the most liberal definition of ability to work. If claimants who receive benefits become sick or disabled and are unable to work, they are allowed to continue to receive benefits until they are offered employment or a job referral. When they report an illness or disability, the agency first determines whether a job match can be made through the employment service. If a suitable job is available, the claimant must either accept it or be deemed unable to work and be denied continuing benefits until the health problem is corrected. If no job match is made, claimants can continue to receive benefits.

All of the sample states allow claimants to be available only for "suitable" work. However, this policy is commonly defined only in the regulations, and not in the statutes. Based on the statutes, only State 5 among the sample states would be counted as allowing this restriction; all others were treated in the regression analysis as using a policy that did not give claimants the option of restricting themselves to "suitable" work.

State definitions of "suitability" deal most commonly with jobs that claimants could reasonably expect to obtain, or which would not impose intolerable burdens on them. For instance, if a claimant has no qualifications for or experience with a particular type of work, the states generally do not require that the person be available for that type of work, or view the claimant's stated availability for such work as having satisfied availability requirements. States allow claimants to restrict their availability to employment that does not pose health or safety hazards, and which is located within an acceptable distance from their residence. However, large differences exist within the six sample states in terms of the detail and precision with which these rules are developed. States 1 and 2, in this area as in others, provide a clearly greater level of definition than other states.

It appears that all of the six states allow claimants to restrict their availability to work that pays wages and requires skills comparable to their usual occupation, but it also appears that the states relax this restriction as the claimant's unemployment continues. The clarity and terms of this policy vary significantly among the six states. Statutes or regulations in States 3 and 5 do not define how claimants are expected to lower their expectations about wages as time elapses. State 4 simply allows claimants a "reasonable time" before they are expected to adjust the scope of their availability. States 1 and 6 define specific "adjustment periods" during which claimants may restrict themselves to jobs at their usual pay—for example, State 6 for six weeks and State 1 for a period of between four and ten weeks, depending on the skill level of the claimant's occupation. However, neither of these states clearly defines how rapidly claimants are then expected to adjust their wage demands and by how much. In State 2, however, explicit guidelines on this subject are included in the regulations, allowing claimants the first five weeks to search for comparably paying jobs, with three subsequent six-week periods in which their wage demands should be reduced to, respectively, 75, 70, and 65 percent of their last pay.

The extent to which claimants may limit the hours and shifts they are willing to work without being considered unavailable for work varies somewhat from state to state. Despite differences in description, however, States 1, 2, 3, and 5 all basically require claimants to be available to work the hours which are customary for the occupation in question. Typically, claimants may exclude night-time hours unless those are the rule in their occupation, and may limit themselves to night-time hours only if a substantial labor market remains open to them with that restriction. State 6 simply requires that, whatever the restrictions claimants place on hours, they must remain available for 50 percent of the jobs in the occupations in which they are seeking work. State 4 appears to have no clearly defined rules on hours restrictions.

All of the sample states deny benefits for any week in which a UI claimant is unavailable for work. Claimants may be considered unavailable if they are away on vacation, attempting to become self-employed, incarcerated, too ill to work, or otherwise not in a position to accept employment. It appears to be common practice, and in some instances part of eligibility regulations, to accept a claimant's unavailability for part of a week without denying benefits. The states vary somewhat in how strictly they apply their rules on partial-week availability. The regulations in State 1 clearly stipulate that benefits will be denied for the entire week if a claimant is unavailable for work for more than one day in a week. States 2 and 5 are less demanding; they simply require that the claimant be available for work for the "majority of the week," so that two days of unavailability would be accepted. States 3, 4, and 6 have no clear rules on partial-week availability that we could discover.

To be considered unemployed, an individual must be seeking work. All of the states express this requirement with two rules: claimants must register with the state employment service, and they must pursue and provide evidence of their own active work search. For both requirements, the six sample states differ considerably in how stringently they apply them to claimants.

All six of the sample states require some form of registration with the employment service; but, to varying degrees, they all recognize that it would be inappropriate to require all claimants to register. One aim common to all of the states is to avoid burdening the employment service with registering claimants who have been temporarily laid off and who either expect to be recalled within a reasonably short time or will be recalled on a definite date. Not extending registration requirements to such claimants is also in the interests of employers which are responsible for the layoffs, because it effectively prevents the employment service from referring these claimants to other jobs, and thus protects the employers' pools of experienced workers available for recall. The states also commonly exempt from registration requirements those claimants who normally find work through a union-hiring process or who are unemployed because of a labor dispute in which they are not directly participating.

However, the sample states vary widely in how long an anticipated period of layoff will be accepted without imposing the registration requirement, and how long a period may go by before excused claimants are required to register. States 1, 2, 4, and 6 are relatively stringent on this matter, exempting claimants from registration if their unemployment is expected to last up to four or five weeks. States 3 and 5, however, allow much longer anticipated unemployment (10 and 13 weeks, respectively) before requiring registration.

The substance of the registration process that satisfies eligibility requirements in the states also varies, and seems to reflect the level of expectation in the state agency about the degree to which the employment service will in fact expose claimants to potential job offers. At one extreme, State 5 simply requires claimants to sign a statement about their willingness to accept employment. State 3 requires a minimal registration process: the majority of unattached claimants[2] need only complete a short registration form that is subsequently entered on employment service files as an "inactive" registration, so that the claimant is subject to referral only when voluntary registrants with the employment service do not provide enough suitable referrals to employers who request them. UI claimants are placed in "active" registration (which exposes them to the real likelihood of job match) only if they are in high-demand occupations or if the local economy is active enough to require expanding the pool of available referrals. Although State 6 requires all claimants to register if they do not expect to be recalled within five weeks, it maintains a special "short-term" file with the registration information of all claimants who expect to be recalled within five months. The employment service will match these claimants only with jobs of a specified short duration, which, according to agency respondents, substantially reduces the likelihood of a job match and referral. The rules in States 1, 2, and 4 constitute the most substantive registration process: claimants are required both to complete forms that provide information on work skills and availability and to take an interview with an employment service interviewer.[3]

No state agency explicitly assumes that all UI claimants will become re-employed through the efforts of the employment service, but the six states we examined vary dramatically in the extent to which their eligibility requirements insist upon an active, independent work search by the claimant. The states also vary in terms of the regularity with which and the methods whereby they expect claimants to seek jobs, and the evidence they expect to document that search. The most routinized job-search documentation is expected in States 3 and 4, where claimants are to conduct an active job search and submit the names of two employer contacts made each week when they file ongoing claims. In State 4, the contacts are supposed to be made on two different days of the week.

States 1 and 2 have regulations and practices which define a more flexible requirement. In State 1, claimants are required to be "actively seeking" work, to provide evidence of the previous two weeks of search activity at application time, and again to provide evidence of two weeks of search during Eligibility Review Process (ERP) interviews at ten-week intervals. No standard number of contacts is expected each week, but, for each case, claims interviewers can determine what constitutes an appropriate level of search activity, depending on the type of work sought and the local job market. In State 2, statutes and regulations simply require a "diligent search" effort, which can be established for each individual case. In practice, however, State 2 appears to require that all claimants submit the names of two employer contacts per week.

States 5 and 6 have the least rigorous job-search requirements. State 5 does not appear to have a rule that establishes an active work-search requirement, so that availability for work is likely to be tested only if a claimant is referred to a job interview by the employment service. State 6 has no formal work-search requirement that applies as a blanket rule. The UI agency can impose a specific search activity requirement for individual claimants if their labor market attachment is questionable; however, agency respondents report that this step is taken only for less than 1 percent of all claimants.

Refusal of Work or Referral. All states require claimants to accept referrals to suitable jobs when offered by the employment service, and to accept offers of suitable work from employers whether the offer is generated through an employment service referral or through an independent work search. The definition of suitable work is the major source of variation in refusal policy among the states.

Definitions of suitability of work for purposes of determining whether a job is refused with good cause generally correspond to the suitability criteria used to assess claimants' availability for work. The clearest variation among the sample states exists in the rules on the extent to which and the speed with which claimants must adjust their job demands over time. As described earlier, State 2 has the most specific and stringent policy on this criterion. States 1 and 6 define specific periods after which some adjustment is necessary. States 3, 4, and 5 have no clearly stated rules at all on the adjustment period.

States also seem to vary in the type of distinction they make between refusing to accept a job referral and failing to respond to agency attempts to provide the referral. Although benefit denial would normally be justified only by an explicit refusal by the claimant, an inadequate response to referral attempts sometimes indicates a situation in which the claimant is not actually available for work. The manner in which states follow up on difficulties in making referrals is discussed below, when we examine the methods for detecting determination issues.

Penalties for refusing job offers or referrals generally correspond to those imposed for misconduct and voluntary quits. States 1 and 5 disqualify claimants for the duration of employment and until their subsequent employment earnings equal, respectively, five and six times the weekly benefit amount. State 2 requires claimants to have post-unemployment earnings of 10 times the weekly benefit amount. State 3 disqualifies claimants either for five to ten weeks or until re-employment earnings reach 10 times the weekly benefit amount. Agency respondents in State 3 reported that the penalty depends on "personal circumstances" and the "suitability of the job," but we did not discover any more explicit decision guidelines. States 4 and 6 disqualify claimants for the duration of unemployment and require both a minimum period of re-employment and minimum earnings. State 4 requires five weeks of work and 10 times the weekly benefit amount, and State 6 requires four weeks of work and at least $200 in gross earnings before a claimant can requalify.

B. Detection and Identification of Determination Issues

Eligibility requirements provide the theoretical basis for determining which claimants should be awarded or denied benefits. However, nonmonetary denials occur only when some reason has been established to question or challenge the legitimacy of a particular claimant's work separation or continuing availability and willingness to accept work. The effectiveness with which UI agencies identify issues that require determination can thus be expected to affect their ability to deny benefits to claimants who are in fact ineligible. This section describes the ways in which the six sample states identify cases that require determination for both separation and nonseparation issues.

Separation Issues

The site visits uncovered two types of variation among the sample states which could contribute to differences in the rates at which separation-related determination issues are raised. The first pertains to the possible effect that information provided to individuals during intake has on detecting determination issues. The second pertains to the manner in which the UI agencies solicit information on separation issues from employers and take the initiative themselves in opening the determination process.

The manner in which UI agencies provide information on program rules to individuals at intake seems to reflect two motives. On the one hand, the agencies we examined were simply complying with their legal obligation to provide claimants with information about their rights and responsibilities under the unemployment insurance law. On the other hand, agency respondents consistently stressed that agency policy was to encourage application, and that the agency had no motivation and made no effort to screen out or to discourage the application of individuals who had potentially questionable claims. Clearly, however, information provided to individuals who are interested in filing an initial claim might potentially either discourage them from applying or affect the information they supply to support their claim. In turn, either condition could affect the frequency with which agencies identify questionable claims and perform determinations.

The UI agencies in the sample states did in fact vary according to when and how they provided information on UI rules and claimants' responsibilities in the sequence of intake steps. States 1, 3, and 5 seem to provide a brochure onrules, rights, and responsibilities only *after* the claimant has completed the application forms for UI, has provided information on the reason for work separation and on his or her availability for employment, and has made some contact with the claims taker.[4] In State 2, individuals receive a brochure on program eligibility rules and their responsibilities *before* they provide any application information. When they are called in to see a claims taker, the claims taker briefly reviews the program rules and then reads through the questions on the initial claims form and fills it out for the claimants as they respond. In State 4, claimants receive an explanation of the program and their rights and responsibilities after meeting with an employment service interviewer, but before completing the initial claims form and talking with a claims taker. Furthermore, if the claims form indicates a possible separation issue, claimants are asked to return with a completed fact-finding form a week later when they file their first weekly claim. In States 2 and 4, it is possible that some specific information on program rules might turn away individuals who doubt their own eligibility. This situation would be particularly possible in State 4, in which the normal sequence of events would give the claimant a week to decide whether or not to go ahead with the claim. It should be stressed, however, that none of the agency respondents felt that a screening effect was occurring to any significant extent.

A stronger potential for influencing determination frequencies lies in the variation among state methods for obtaining information from employers on separation reasons and the extent to which the agency itself will initiate a determination. Since all states ask claimants for their own statement about why they were separated from employment, the agency itself has some basis for independently deciding whether an issue exists and requires determination. Some variation exists among the states in the extent to which they use this information, the manner in which they pose questions to employers, and the degree to which the agency insists that employers return the form on which they are asked to provide information.

States 1, 2, and 3 seem to take a more active role in obtaining employer information and in finding issues than do States 4, 5, and 6. Before awarding benefits, State 1 sends a form to the last employer and asks the employer to return the form with the information on the reason for separation. If the form is not returned, claims adjudicators will telephone the employer before the first claim is processed, even if repeated efforts are necessary. State 2 automatically initiates the determination process as soon as the claims interviewer notes an apparent issue on the initial claim form, and provides two separate mechanisms whereby employers can notify the agency about the separation circumstances. Employers are provided with a stock of forms which they can use at their own initiative to inform the agency when an employee is terminated, allowing them in a sense to submit a "prior protest" before the agency solicits information or even receives a claim from the claimant. In addition, the agency routinely sends a different form to the last employer of each new claimant to request separation information, and this form must be returned before the claim is processed. State 3 sends information request forms to all of the claimant's employers in the four base-period quarters and the most recent quarter, and follows up the request forms with a telephone call to the most recent employer if no response is received by the first weekly claim filing.

States 4, 5, and 6 follow procedures which in various ways seem less likely to uncover real issues or to lead to reported determinations. In State 4, for instance, a form that requests separation information is sent to the last employer and is to be returned within seven days; however, if no response is received, follow-up procedures are not undertaken, and the claim is then processed. The frequency of determinations in State 4 might also tend to be held down by the high percentage of initial claims that are filed by employers directly for temporarily laid-off workers (40 to 55 percent, according to respondents). Such claims are probably less likely to contain information that would be questioned by agency staff. State 5 sends an information request form to the last employer and monitors the return of the form, but it treats identified issues in a way that may depress the reported number of determinations. If an apparent issue is identified when the claimant completes the initial claims form, an interview is conducted immediately to collect further information. If this interview demonstrates that no reason for denial exists, the process is not counted as a determination.

State 6 specifically requires that separation issues be initiated only by employers' protests on the forms the agency sends them. Claims interviewers note only nonseparation issues, and do not initiate a determination even if the claimant reports having quit or been fired from the last job. Moreover, a form sent to employers asks whether they "question the eligibility of the claimant for benefits," and not simply the reason for the individual's job separation. For employers who are unfamiliar with unemployment insurance law and the experience rating system, or for employers who already pay the maximum tax rate, this approach for obtaining information would seem less likely to elicit answers that might lead to benefit denial.

Nonseparation Issues

Continuing eligibility issues are most likely to be identified from four sources: (1) an examination of intake forms; (2) an examination of ongoing claim forms for compliance with availability, refusal, and work-search requirements; (3) information obtained in periodic Eligibility Review Process (ERP) interviews; and (4) the responses of claimants to job referrals or offers generated by the employment service. The states vary in the strictness of their claims review process, the frequency and regularity of ERP interviews, the likelihood that claimants will be exposed to job referrals, and the agency's treatment of claimants' responses to referrals. We did not obtain noteworthy information on all of these ways to identify issues for all of the sample states, but a summary of relevant available information for each state shows some distinctions among them.

State 1 appears to use the claims review process and ERP interviews fairly rigorously. Weekly claims forms pose questions designed to flush out issues. Claimants are asked for a straightforward account of facts without any interpretation. For example, they are simply asked whether they refused any work, rather than whether they refused work without good cause. Similarly, they are asked whether they were available for work for the entire week, even though one day of unavailability would not represent a basis for denial. Claimants who are required to appear in person are scheduled for a particular day in the morning or afternoon. If claimants report at the wrong time once, it is simply noted in their file; if it occurs a second time, a question is raised about their availability, and a determination is made. Failing to respond to a referral call-in card also prompts an investigation of possible availability issues. ERP interviews are conducted every 10 weeks after the initial claim, and they focus on determining the adequacy of job-search efforts and availability for work. If a question arises about either requirement, the claimant may be required to submit continuing claims in person.

State 2 also follows certain practices which would seem to enhance the agency's ability to identify potential issues. The weekly filing process requires claimants to submit information on employer contacts. These contacts are listed by the claimant on a form which is reviewed and then returned to the claimant for use with subsequent claims. Thus, when this form is reviewed by agency staff, they have in front of them a multiple-week list of up to 40 employer contacts, which may make it easier to spot repetitive employer entries, suspicious patterns that may suggest fabricated contacts (e.g., alphabetically listed employers), or other reasons to question work-search activity. The number of employer contacts is checked on each submission. A warning is issued the first time that the claimant reports too few contacts; the second time, the determination process is initiated. Moreover, the agency conducts an ongoing audit of employer contacts, verifying 1 percent of all contacts reported. Although such a sample may only marginally affect the probability that misinformation will be discovered, the knowledge that this procedure is followed may deter claimants from submitting false contact information. ERP interviews are conducted every four to seven weeks for claimants who are not on temporary lay-off and focus clearly on detecting potential eligibility issues. For new claimants who are viewed as having potential able/available issues, an ERP is scheduled a week after the initial filing. The agency also provides employers with a stock of forms on which they can initiate a report of recall or job refusal.

Some of our observations during the State 3 site visit suggest that this state may be less effective in identifying nonseparation issues. As pointed out in Section A, very few State 3 claimants register with the employment service and have any real chance of being referred to an employer. Moreover, state policy requirements for work-search activities do not seem to be followed consistently. State policy requires claimants to report two employer contacts per week in order to continue receiving benefits. However, in neither of the offices we visited did staff appear to follow this policy exactly. In the urban office, if contacts were missing from the claimant's report, the agency seemed to follow up by providing claimants with information on program requirements, but only in rare cases did it initiate a determination. In the rural office, the perception of policy is that claimants are not required to make any contacts for the first 10 weeks. The policy which exempts employer-attached claimants from ES registration and work-search requirements for 10 weeks seems to affect the treatment of all claimants. ERP interviews in State 3 are supposed to be held every 10 weeks, but the reported average interval between ERPs is 13 weeks.

State 4 seems to schedule ERPs more effectively than does State 3, setting a maximum interval of ten weeks, but scheduling them at four-, six-, or eight-week intervals if any question arises at intake about the claimant's ability to demonstrate continuing eligibility. Conversely, State 4 seems to take a fairly relaxed approach toward monitoring work-search activity and dealing with claimants' responses to job referrals. Claims reviewers reportedly question only the most "outrageous" information (such as a list of employers which includes the names of well-known sports figures). One respondent said that a determination would not be required even if a claimant appeared to be listing employers alphabetically from the telephone directory. Employer contacts are not verified. The agency also responds mildly to problems in referring claimants to employers. The common rule of thumb followed in State 4 is that only when three referral call-ins have been ignored will an issue be raised, which is considerably more tolerant than the practices of States 1 and 2.

With respect to weekly claims, State 5 follows a practice which would seem to increase the number of issues raised, but which would not necessarily increase the probability that they will lead to denials. Able and available issues probably arise most often from the agency's reporting requirements and the claimants' failure to comply with them. Claimants scheduled for in-person filing or an ERP interview are told to appear on a specific day at a specific hour. If the claimant appears for claims filing at the wrong time, it is noted in the file. By the third time it occurs, the claimant is referred to an adjudicator for determination. If a claimant fails to appear once for an ERP interview at the proper time, a determination is made. Particularly in the urban office, where a high percentage of claimants are reportedly on continuing personal filing, this tightly scheduled reporting regimen may expand the number of determinations. However, failure to report at the right hour may be less indicative of the claimant's unavailability for work than would, for instance, failing to report on a scheduled day.

Conversely, State 5 seems to expose claimants to a minimal risk of being questioned about refusing work or referrals. Weekly claim cards ask claimants whether they had "refused work without good cause," allowing them to provide their own interpretation of state policy rather than a straightforward account of facts. Moreover, very few claimants are likely to be referred to jobs by the employment service. Under State 5 policy, claimants are not required to register with the employment service if they expect to be recalled to their jobs within 13 weeks (a long period compared with other states), but work-load pressures on the employment service have created practices that are even less rigorous. In the rural office, the employment service requests that claimants not be referred for registration if they had any expectation of recall; in the urban office, the stated policy is to register everyone after 13 weeks of unemployment but not to register anyone before that period. The employment service clearly seems to focus on registering individuals who volunteer and who appear to be the most interested in obtaining employment with the agency's help. The result, however, is that claimants who are most likely to refuse employment without good cause are the least at risk for referral.

The likelihood that nonseparation determination issues will be raised in State 6 is probably affected by the agency's minimal emphasis on work search and by problems in maintaining a regular schedule of ERP interviews. State 6 does not require claimants to report any work-search activity on the weekly claim card; thus, no regular, frequent basis exists for examining claimants' continuing exposure to the job market, which is of course one measure of their attachment to the labor market and of their availability for work. In addition, due to staffing cuts, State 6 has had considerable difficulty in achieving its objective of holding ERP interviews every eight weeks for each claimant. For instance, the urban office we visited had not held *any* ERPs in the five months prior to our visit.

C. Fact-Finding and Decisionmaking

Once the UI agency identifies a nonmonetary eligibility issue on the basis of either statements made by the claimant or information provided by employers, a process of fact-finding and interpreting reported facts leads to a decision about the merits of the claim—a determination. This process includes two distinct functions: gathering information as a basis for making these decisions and considering the facts in light of state laws and regulations.

Although all states in our sample appear to provide guidance for fact-finding and decisionmaking, the variation in the detail and precision of state regulations and procedures commented on in Sections A and B of this chapter clearly has some potential impact on how determinations are reached. In our site visits, we did not find specific complaints about inconsistent or unfounded determination decisions, but consistency and justification are clearly a concern of the states.[3] All use some type of procedure for reviewing and performing quality control on determination decisions (see Section D for a discussion on the approaches adopted for ensuring quality control).

The determination process follows different patterns in the six sample states. The fact-finding process also varies in several ways. First, some states seem to conduct frequent preliminary, informal inquiries to confirm whether an issue merits formal determination; other states treat every issue that has been identified through routine claims review as a basis for formal determination. States also seem to differ in the extent to which they encourage employers to participate in the fact-finding process or actively draw them into it. Determining eligibility based on the facts, usually called "adjudication," is also a process which varies somewhat among the six states. Some variation exists in terms of who performs adjudications, and the manner in which decisions are prepared and notifications are produced is not completely uniform.

State 1, like most other states, makes determinations at the local office level. What is somewhat unusual, however, is that nonmonetary determinations, including fact-finding and adjudication, are a responsibility which rotates among all of the local office nonclerical claims staff, as opposed to being assigned only to the senior or most highly qualified staff. As a corollary to this practice, all claims staff learn to make determinations through on-the-job observation and training, which may affect their performance in handling initial claims routinely by giving them a more thorough foundation in and frequent exposure to state policy guidelines. On the other hand, assigning determinations on a rotating basis may mean that relatively junior staff will perform some determinations, which may detract from the consistency with which rules are interpreted and applied. State 1 is also noteworthy in terms of the degree to which it insists that employers provide input to the determination process and the extent to which the state uses that input. If an employer report is not returned or if a separation issue has been noted by the claims taker and the claimant's facts contradict the employer's report, an adjudicator will contact the employer by telephone. In either situation, no claim will be processed without information or clarification from the employer. Moreover, the adjudicator does not require any written follow-up on information received from the employer by telephone, which avoids one potential barrier to employer input observed in other states.

The fact-finding and determination processes in State 2 also focus on obtaining full information from both the claimant and the employer whenever relevant, but its procedures place some greater demands on employers. The agency treats employers as a source of information that can potentially raise both separation and nonseparation issues. The agency provides employers with a stock of forms on which the employer may initiate reports of quits, discharges, or refusals; it also solicits information from the employer on separation issues as they arise for individual cases. An employer's written protest, submitted on forms from the agency or sent at its own initiative, must include a detailed explanation of any issue cited by that employer. Furthermore, fact-finding is conducted in scheduled interviews in the local office to which an employer representative and the claimant are invited. Decisions are based on written information received prior to the interview and evidence presented in it; if the employer does not attend, no effort will be made to elicit further information. Agency respondents reported that employers attend about 25 percent of these adjudication interviews, and viewed this as a low attendance rate.[6]

The fact-finding and determination processes in State 2 seem particularly well designed to ensure that sufficient information is collected and that consistency is maintained in how the process is conducted and what information is provided to the parties at various steps. Employer information is actively sought, but all information must be submitted in writing or presented at the formal interview at which the claimant is present. A clear set of step-by-step guidelines on what should be covered in a determination interview was set forth by agency staff. State 2 sends copies of employer reports to claimants and always informs both the claimant and the employer in writing about a scheduled fact-finding interview. Decisions are very closely constrained by the detailed regulations on all aspects of nonmonetary policy. Finally, consistency in justifying decisions is promoted through a computer system that allows adjudicators to select among a standard list of regulation codes and then automatically prints the appropriate explanatory text on notification decisions sent to the parties.

The fact-finding and adjudication processes in State 3 appear to screen out some issues that would be resolved in favor of the claimant before the formal determination stage, to involve employers in the process to a lesser degree than in States 1 and 2, and to focus on judging the severity of the claimant's offense rather than on establishing whether one occurred. Information from employers triggers only separation-related determinations, since no mechanism exists to report recall refusals, as in State 2. Some separation determinations are short-circuited by informal inquiry; claims adjudicators sometimes call employers prior to any formal determination interview if the reported facts do not seem to support their protests. It appears that such cases can lead to an informal resolution of an identified issue without a reported determination process. When an adjudication interview is held, it may or may not include the employer. Employers will generally attend only if a sharp discrepancy exists between the facts reported by the employer and the claimant, and respondents in State 3 reported that such cases occur very rarely. Most interviews include only the claimant and the adjudicator. Moreover, it should be remembered that State 3 provides for two levels of penalties for separation and refusal denials. As a result of these factors, it appears that State 3 in effect conducts formal determinations only when the chances of denial are high. Adjudication interviews usually focus on the degree of the claimant's offense, for purposes of establishing the length of the disqualification period.

In State 4, fact-finding and decisionmaking are two separate functions. For disqualification issues (quit, misconduct, and refusal), fact-finding is performed at the local office, and adjudication is performed at the central state office. For able and available issues, fact-finding and adjudication are performed by local office staff. Not surprisingly, using central office staff for all other adjudication purposes (a process which was instituted in order to lower administrative costs and to increase the consistency of decisionmaking) affects the methods used by local staff for fact-finding purposes. State 4 does not use scheduled interviews that require the presence of both the employer and the claimant. Claimants are expected to provide a completed fact-finding report, and employers may submit a written protest on separation issues. Claimants are allowed to see any material submitted by the employer and to prepare a rebuttal. Both the employer's and the claimant's reports (including a rebuttal in some cases) are sent to the central adjudicator. The adjudicator may call either party if further information is necessary. The fact-finding process in State 4 differs from the process in the other states in that it does not contain a provision for an interview in which both parties participate at the same time. Moreover, adjudicators never deal with the parties face to face. Consequently, adjudicators may find it more difficult to judge the credibility of the parties.

Central adjudication in State 4 may mean that the quality of evidence available to decisionmakers is not as complete as what might be available if fact-finding and determinations were undertaken by the same person. Moreover, central adjudication may undermine the decision process to the extent that both parties feel that their positions are not given the proper attention. The high incidence of appeals in State 4 supports both contentions. In 1982, first-level appeals were made on over 22 percent of all determinations, ranking the state among the top five in the country. Moreover, the determinations which tended to be appealed were clearly those which were adjudicated centrally. Appeals were filed on less than 5 percent of able and available determinations, ranking State 4 among the lowest five states according to this measure.

State 5 maintains a fact-finding and adjudication process which is heavily affected by federal timeliness standards for paying initial claims and by state court decisions which require determination decisions within 72 hours after a claimant has filed for the week in question. The state UI agency responds to these time pressures through procedures that include rapid fact-finding, frequent use of telephone discussions to collect information, some screening of issues before they become formal determinations, and a low emphasis on formal notifications and advance notice of hearing sessions. When a separation issue is noted on an initial claims form or is signaled by an employer report form, or when nonseparation issues arise from job refusals or ERP interviews, claims adjudicators act quickly to clarify whether a formal determination is necessary. When an initial claim points to a possible separation issue, an adjudicator conducts a fact-finding interview before the claimant leaves the office, perhaps calling the employer by telephone in the claimant's presence. If such a fact-finding interview indicates either a consistent set of facts from the two parties to support benefit denial or conflicting statements that require a judgment about credibility, the adjudicator will ask the claimant to file a claim for the waiting week, since a claim must be filed before a determination decision can be issued. The employer would still be required to submit a written report form on the reason for separation. If necessary, a predetermination hearing with both parties would then be held. However, if the fact-finding interview indicated no reason for benefit denial, the matter would be dropped. The rapid follow-up procedures on separation issues in State 5 and the practice of collecting all the facts *before* the first weekly claim is filed may mean that issues which in other states are reported as determinations are eliminated in State 5.

Time pressures also influence the handling of nonseparation issues in State 5. When issues are discovered while the claimant is in the office for a personal filing or an ERP interview, the fact-finding interview is held immediately. If an issue arises after the claim has been filed for the week in question, a formal notification is mailed to the claimant, but the adjudicator also telephones the claimant to schedule an interview immediately. No waiting time or advance notice is required. When the fact-finding interview is held, the claimant's statements will be taken into evidence, as will any written statement that may have been submitted by an employer (e.g., for refusals); in most cases, a decision will then be issued the same evening.

State 6, although not under the same court-imposed pressures for rapid determinations as State 5, also follows procedures which appear likely to resolve some issues before they reach the formal determination stage, particularly those that are raised by employers' protests over separation reasons. The agency seems to place strong emphasis on having employers present evidence of a strong case before the determination process is formally undertaken. For instance, the form which is sent to employers to ask whether they question the claimant's eligibility for benefits also asks for a detailed explanation of the reasons for protest, and it warns that failing to provide such detailed information may preclude consideration of their protest by the agency. Despite this urging, agency staff report that they must frequently call employers to clarify information, particularly for misconduct issues. One respondent stated that this screening process prompts many employers to drop their protests, although the agency clearly makes no explicit attempt to discourage the pursuit of a protest.

State 6 follows a determination schedule that is much more heavily influenced by due process and advance notice requirements, and less by time pressures, than is true in State 5. Once it is clear that a real issue exists, a formal notice of a hearing date is sent to both the employer and the claimant (or only to the claimant in most nonseparation issues), giving them between five and seven days' advance warning. Determination decisions are also not issued as quickly as in State 5. The agency's objective is to complete all determinations by the end of the week in which the hearing is held, and to comply with federal timeliness standards.

D. Agency Characteristics

Parts of the interviews conducted with central and local agency staff in the sample states dealt with their organizational characteristics and internal management concerns. Four topics were covered to at least some extent in most of the states: (1) the formal structure of the UI agency and its organizational relationship to the employment service; (2) the methods used at the state and local office levels to monitor the performance of claims functions in general and nonmonetary determinations in particular; (3) the characteristics of local office staff; and (4) the extent and type of training provided to local office staff. Although these discussions at times touched on particular problems that may have been encountered recently by an office or state, the information obtained does not indicate any clear, systematic differences among the states along these dimensions. However, several observations or themes that seem common to most or all of the states emerged.

One clear theme from the interviews is the importance of experience as a qualification to perform nonmonetary determinations. Whether claims adjudicators (variously referred to as "examiners," "specialists," and "deputies") are promoted from claims-taker positions or are hired from outside the agency, the methods for training them clearly stress on-the-job observation, periods of close supervision and review, and periods of assignment to a variety of related tasks. Only a few states appear to operate more formal training sessions. To the extent that they do use these sessions, they appear likely to stress general interviewing techniques when provided for new staff; under budgetary or other pressures, the sessions tend to fall into disuse. Formal training for experienced staff, when provided, is apparently designed to explain newly introduced policies or procedures and seems likely to be given only to lead staff.

The importance of experience for examiners is also reflected in respondents' comments about the use of temporary or intermittent staff. This practice is followed in all of the states to facilitate adjusting staff levels to the volume of claims, but appears to varying degrees to create concerns about whether the more demanding roles in the local offices are staffed with adequately qualified and experienced staff. In some of the offices we visited, temporary staff filled the majority of claims-related positions. Most state and local offices focus on using the most experienced staff for the most demanding determination issues. Intermittent staff, and particularly the less experienced intermittent staff, are typically assigned to the initial claims line, which requires less judgment and knowledge of policy than do determinations. However, one respondent in State 3 noted that the degree to which intermittent staff must be used means that determinations are also performed by staff who possess less than fully desirable experience.

The necessity of relying heavily on temporary staff to retain flexibility also seems to contribute to staff turnover, since temporary staff, rather than maintain a long-term commitment to the agency, will often use these positions as a stepping stone for other jobs with more stable work, better benefits, and clearer career advancement possibilities. Staffing a considerable portion of local office positions with individuals who possess intermittent job experience or relatively short tenure contributes to concerns about the agency's ability to identify determination issues.

Concern about the quality and consistency of determinations has led all of the states to undertake some type of monitoring and quality control. Typically, central office staff use one or both of two devices: a review of monthly statistical reports on determinations and reversals, with follow-up action when particular problems are revealed; and annual audits or reviews of each office, including an examination of individual determination cases. Only in State 1 did we observe any specific criteria used in central office monitoring which would trigger an inquiry by management and remedial intervention with respect to local office operations. Although the program rules in State 1 allow compelling personal reasons as justifications for voluntary separation, state officials are concerned about excessive benefit awards in such situations. Whenever claimants who have quit voluntarily and have been awarded benefits account for more than 10 percent of all separation-related determinations, state officials will investigate. However, from our interviews, it was impossible for us to judge the effectiveness of these monitoring efforts or their effect on performance. Similarly, although local office procedures to ensure quality and consistency typically entailed a review by senior staff of determinations made by junior staff, we could not find any examples of particularly strong or weak efforts to control quality by these means.

NOTES

1. To derive the quintiles, we ranked all 50 states plus the District of Columbia for each determination and denial rate. We then divided each ranking list into five parts for states 1-10, 11-20, 21-30, 31-40, and 41-51.

2. "Unattached" claimants are those who do not expect to be recalled by the employer which laid them off.

3. It should be noted that a number of states quite clearly had adjusted the rigor of their registration requirements because of the high level of unemployment at the time of our visits and because of the consequent difficulties faced by the employment service in finding job referrals for registrants in general and for UI claimants in particular.

4. The states use a variety of job titles to describe the functions performed by staff in the UI offices. The job of taking initial claims forms at intake is performed by staff who are usually referred to as "claims takers" or "claims interviewers." Fact-finding, determinations, and Eligibility Review Process interviews are usually performed by staff who are referred to as "examiners," "adjudicators," "claims specialists," or "deputies."

5. As measured by the Department of Labor's Unemployment Insurance Quality Appraisal Results, all six sample states maintain high standards for the quality of nonmonetary determinations. With one exception (the performance of one state on nonseparation determinations in 1981), all states have achieved desired levels of quality over the fiscal years 1980-1982.

6. One State 2 respondent suggested that employers do not generally take part in these interviews because they prefer to avoid the burden of participating, to take their chances on winning a denial based on their written protest, and to appeal the decision if necessary. The respondent suggested that employers thus "overuse" the appeals process. In fact, data for one quarter in 1980 confirm that employer-initiated appeals are undertaken for about 6 percent of all determinations, ranking this state among the highest in the country in terms of the incidence of employer-initiated appeals.

5

Interpretation of State Characteristics and Denial Rates

The research undertaken for this project addresses an important question for UI program managers and policymakers: what steps can be taken to make the nonmonetary eligibility determination process contribute most effectively to the integrity of the unemployment insurance program in the states? More specifically, the patterns observed in the regression and process analysis may suggest how nonmonetary determinations can help state agencies (1) minimize the extent to which claimants violate nonmonetary eligibility rules and (2) maximize their ability to detect violations when they occur and to reduce or deny benefits accordingly.

It is important to begin our interpretation of state characteristics and denial rates with a recognition of these two aspects of program integrity. Although our analysis must focus on the rates at which states deny benefits for nonmonetary reasons, high denial rates in themselves clearly do not necessarily mean that program management goals have been achieved most effectively. In a state that effectively disseminates information about program requirements and ensures a relatively well-informed public, denial rates might be low because relatively few ineligible individuals attempt to receive benefits. However, such an outcome could be viewed positively from the standpoint of program managers. Although our analysis in this chapter must use denial rates as the primary basis for comparing states, we have also devoted attention to possible ways in which state practices may be affecting denial rates by affecting the stream of applicants for benefits.

This chapter presents our efforts to glean inferences from the site visits about the effects of state policies and procedures, administrative methods, and agency characteristics on both denial rates and, more generally, program integrity. Section A briefly discusses how we have analyzed the site visit data. Section B then presents summary characterizations of each state, with comments on what appear to explain the denial rate patterns in each state. Section C offers some concluding observations about the effects of program policy and administration on denial rates, based on patterns across the six sample states.

A. Analytical Approach

Our process analysis consisted of three logical steps. First, we attempted to identify the peculiarities of the denial rates in each state for 1982. By using the exact rates for the frequency of determinations, the denials as a percentage of determinations, and the net denial rates that underlie table 4.1, we assessed how the rate of each state compared with those of other states and looked for anomalies in the rate patterns within each state. On the one hand, we were interested in whether for particular rates, such as the frequency of misconduct-related denials, a state ranked high or low compared with other states. On the other hand, we were also interested in whether apparent inconsistencies existed within the overall rates observed for a state. If, for example, a state generally had very low rates of determination but had a very high rate for one particular issue, such an anomaly would provide a basis for considering policy and administrative characteristics. These inter- and intra-state peculiarities serve as the "dependent variables" for our process analysis.

The second step was to undertake a structured and systematic comparison of the site visit information for the six states. Tables were constructed for each of the major stages of the determination process (eligibility rules, detection, and fact-finding and decisionmaking) and for each of the nonmonetary denial reasons. The site visit reports, which contained extensive descriptive information, were combed for relevant entries to these tables. This process identified the peculiarities that distinguished the policy and administration of each state from those of the other states, and provided the "independent variables" for the process analysis.

The third step was to find connections between the policy and administrative characteristics of the states and their denial rates. This analysis proved rewarding, in that apparent explanations for denial rate patterns in individual states did emerge. However, before offering our conclusions about these connections, we should note that the analytic method and our conclusions should be approached cautiously, for three reasons: the reliability of our data, their usefulness as a basis for drawing generalizations, and the extent to which we can infer causal relationships from the apparent patterns we observed.

To perform the analysis described above, we must give considerable weight to the comments and perceptions of our relatively few respondents in each state. Comments about the ways in which certain types of claimant situations are handled, or statements such as, "Lots of times we do it that way," form the basis for our impressions of the less formalized aspects of state procedures. The very nature of the process analysis approach necessitates that we use such information only with the understanding that we might be oversimplifying or even distorting the patterns of practice that might emerge from a more detailed, structured, and time-consuming data collection effort.

Even if we were completely confident that our information on each state was completely accurate and reliable, considerable difficulties would still remain in drawing generalizations about each state from our conclusions. Many of the denial rate peculiarities we observed are distinctive to particular states, and what we found noteworthy about state policies and practices was often unique to an individual state. Thus, most of the connections we found between program characteristics and denial rates were based on an examination of one or perhaps two states, rather than on any strong patterns across all of the states. Finding a connection in one state did not indicate that the same relationship existed elsewhere in our sample or in other states.

Most important, it is very difficult to draw inferences about causality from what we observed. Even though a particular set of rules or practices in a state appears to contribute to the observed denial rates, we realize that many other variables in program administration may be affecting the same denial rates but cannot systematically be observed. Although our conclusions may offer some guidance to states as they consider program policy and management options, clearly there should be no expectation that adopting the practices of another state will necessarily affect denial rates in the desired way.

B. State-By-State Analyses

For each of the six sampled states, we present a summary of denial rate patterns and the major features of their policies, procedures, and agency characteristics, as well as our conclusions about how the latter affect the former. Whereas in chapter 4 we focused on presenting the range of policy and administrative characteristics for particular aspects of the nonmonetary eligibility process, here we focus on each state, drawing together all aspects of the process in an attempt to explain the denial rate outcomes of the specific states.

State 1

State 1 ranks very high among all states in terms of the frequency with which it identifies determination issues. Its determination rates rank it in the first quintile for misconduct and able/available determinations, and in the second quintile for voluntary quit and refusal determinations (see table 4.1). However, State 1 does not deny benefits in an unusually high percentage of cases for which determinations are performed, ranking in the fourth quintile in denials for misconduct, able/available, and refusal issues, and in the fifth quintile for voluntary quit denials. Because the net denial rates are heavily influenced by the high frequency of determinations, the state ranks in the second quintile for three denial rates and in the first quintile for one.

The high rates of determination in State 1 appear to be caused by three major factors: (1) detailed and specific regulations that impose some relatively stringent eligibility requirements and define clear standards against which claimant situations and behavior can be measured; (2) procedures for detecting potential determination issues that promote employer input and encourage agency staff to pursue questionable claimant information; and (3) a local office staff structure which may enhance the ability to identify issues.

The detail and thoroughness of the regulations in State 1 far exceed what have been developed in all of the other sample states, with the possible exception of State 2. The regulations in State 1 break each eligibility requirement down into the specific demands it places on claimants, providing explanations of underlying intent, case examples, and accompanying recommended decisions. One might expect that, because the very detailed regulations would allow precise judgments to be made in the issue identification stage, most claimants who are brought to determination would be denied benefits. However, that is not the case in State 1, a fact which probably reflects the state's emphasis on initiating the determination process whenever a possible issue arises, rather than only when a clear case for denial exists. Instead, the detailed regulations appear to require that the facts in the decision stage be carefully developed and weighed, as reflected in the moderate rates at which determinations lead to denials.

Regulations in State 1 also pose some eligibility requirements that are relatively stringent, and which may thus lead to determinations and denials in situations that would not occur in other states. For instance, the definition of misconduct includes one example of cause for discharge that clearly goes beyond what is found in the other state regulations: the failure of an employee to perform as productively as he/she had performed at an earlier time, thus indicating indifference or negligence. Similarly, the definition of job refusal in State 1 includes actions or behavior by the claimant which would indicate a deliberate effort to fail the job interview. The state's standard for partial-week availability is also the strictest among the six states: a claimant unavailable for more than one day in a week is to be denied benefits for that week. Finally, the requirements in State 1 for employment service registration are rigorous relative to other states in our sample: only claimants who expect to be recalled within 30 days or who normally obtain employment through a union hiring process are excused from immediate registration, and only for 30 days.

The record of State 1 in terms of identifying a high number of determination issues seems to be a product largely of the manner in which claims staff seek out employers' input to the initial claims review process, and of the manner in which eligibility rules and procedures prompt an investigation of ongoing claims reports. Procedures clearly prohibit processing initial claims without obtaining separation-reason information from the last employer, and examiners will telephone employers persistently until that information is obtained. If information received over the telephone indicates the existence of a determination issue, the agency will initiate the determination process rather than insist upon a detailed written explanation, as is true in some other states. Compared with other states, State 1 thus makes it easier for employers to voice objections and may in fact raise issues that employers already paying a maximum tax rate might not even have bothered initiating themselves.

The ongoing eligibility determination process in State 1 is designed to promote staff initiative in identifying the questionable availability of claimants. Rather than requiring a routine report of two or three employer contacts per week, State 1 demands an initial account of employer contacts made during the two weeks between application for benefits and the first benefit-week claim, and again at the 10-week eligibility reviews. Instead of devoting staff resources every week to counting employer contacts whose seriousness and validity are often difficult to assess from a simple claim card, staff resources are devoted at relatively long intervals (every ten weeks in most cases) to evaluating for each individual case whether a sincere and reasonable employment search is being made. If job-search efforts are questionable, the claims staff can either require the claimant to file in person and to present more detailed and frequent search evidence, or initiate a determination.

The method for questioning claimants on weekly claim cards and the state's standard for ongoing availability also encourage pursuing potential issues. Claimants are asked for straightforward facts on claim cards (e.g., Did you refuse a job?) rather than for an interpretation of their actions. At least one other state in our sample asks whether the claimant had "refused a job without good cause." State 1 claimants are asked whether they were available for the entire week, even though the actual eligibility standard allows them one day of unavailability. Other states ask a comparable question: "Were you available for work every day but one?" The effect, and probably the intention, in State 1 is to identify *questionable* claimant behavior and initiate determinations on that basis, rather than simply to identify situations in which a denial is very likely. The fact that only two days of unavailability will lead to a week's denial of benefits also encourages claims staff to investigate the reasons for a claimant's failing to respond to a single referral attempt or the reasons that prompted a claimant to show up at the agency for personal reporting at the wrong time on a second occasion. Such investigation raises the incidence of refusal issues and probably lowers the rate of refusal-related denials, since such investigations count as determinations but are relatively unlikely to lead to the conclusion that a claimant is actually refusing employment. However, they do frequently uncover situations in which availability standards have been violated, and may lead to denials on that issue.

The local office staffing approach adopted in State 1 may also contribute to its high rate of determinations and denials. Aside from clerical and managerial staff, all claims staff have the same title and are rotated among all claims tasks, including initial claims interviewing, fact-finding, and determinations. Checking ongoing claim cards is the responsibility of mail room clerical staff, and they initiate determinations on any card with a "wrong" answer. Ongoing claim forms ask only "yes/no" questions about availability and job refusal issues, but do not ask for information on employer contacts. The review of claim cards does not require any judgment, and can be performed by clerical staff.

As a result of this staffing approach, staff with constant exposure to state policy and regulations are involved in the initial claims process and are free to concentrate their efforts on pursuing potential separation issues and eligibility reviews rather than on routinely reviewing claim forms.

State 2

State 2 resembles State 1 in that it has developed quite detailed regulations to guide the determination process, but it also appears noteworthy for the efficiency with which it uses its staff and its quite advanced use of computer system support for the determination process. Despite these characteristics, State 2 holds a middle rank in terms of denials, placing in the third quintile nationally for voluntary quit, misconduct, and job refusal denials, and in the second quintile for able/available denials. The rate at which it makes determinations is lower than the rate of State 1, although higher than the rates of states 3 through 6.

The UI program in State 2 seems to operate under thorough, careful control. Rules are delineated in great detail in the regulations. For instance, State 2 is the only one of the six we examined which defines explicitly when and by what percentages claimants must adjust their wage demands over the period of unemployment to be considered available for suitable work. It is also the only state which appears to undertake any systematic auditing of employer contacts reported by claimants on weekly claim forms. All determinations are conducted according to clear guidelines, which include requirements that all information be submitted in writing, and that both parties be appropriately notified prior to a disputed claim. The state provides two alternative forms on which employers can submit information to protest a claim: a special form maintained by employers to report quits, discharges for misconduct, or job recall refusals, and a form sent by the agency to the employer to request separation information when an initial claim is filed. ERP interviews are conducted more frequently in State 2 than in any of the other five states; the agency schedules them at four- to seven-week intervals for claimants who are not job-attached.

From the information we gathered, no clear explanation emerges as to why the determination and denial rates of State 2 should be considerably lower than those of State 1, although some of the rules and practices in State 2 are less stringent than in State 1. Claimants must be available three days out of a week to avoid being denied benefits, rather than four as in State 1. Despite regulatory language which appears to give claims staff in both states similar latitude in defining the job-search effort required of each claimant, State 2 actually uses a fairly routine operational standard of two contacts per week, without the infrequent but individualized assessment of job-search efforts that appears to be true in State 1. However, State 2 facilitates the review of reported contacts by using a multi-week reporting form that allows claims staff to review the recent history of reported contacts each week. This helps staff detect fabricated employer contacts or repetitive entries of employers.

The two types of factors that may explain the differences between the rate patterns in States 1 and 2 are external factors and factors that represent a potential deterrent effect, and in neither case can we observe anything to substantiate our speculation. Any underlying employment and unemployment patterns may simply create a population of claimants who are less likely to be ineligible on the basis of their circumstances or less likely to apply for benefits if they are ineligible. Some possibility exists that the overall impression of efficiency and thoroughness presented by the UI agency may convince potentially ineligible individuals not to apply, or convince ongoing claimants to adhere as closely as possible to formal requirements to avoid being denied benefits.

State 3

The pattern of determination and denial rates in State 3 is particularly striking, given the very high rates at which determinations lead to denials. In 1982, the state ranked in the first quintile for denials as a percentage of determinations for all four denial reasons. However, determinations are performed at much lower frequencies than in other states. State 3 ranks in the third quintile for separation determinations, approximately at the middle of the state ranking. For nonseparation issues, State 3 ranks very low in terms of the number of determinations made—near the bottom of the fifth quintile for able/available issues and in the fourth quintile for refusal issues. The high rates at which determinations lead to denials pull the net denial rates up slightly above the determination rankings, so that State 3 ranks in the first quintile for denials based on misconduct and in the second quintile for denials based on voluntary quits and refusals, but in the fifth quintile for able/available denials. These 1982 rankings were slightly below the regression-adjusted rankings for the entire 1964–1981 period reported in chapter 2. The regression-adjusted rankings of State 3 fell within the first quintile for voluntary quits, misconduct, and job refusals, and in the fourth quintile for able/available issues.

The high rates at which determinations lead to denials for separation issues in State 3 appear to be caused by its two-level definition of eligibility requirements and the corresponding two-level definition of penalties. Claimants can be denied benefits for misconduct if they are discharged for almost any other reason than a lack of work, but the penalty imposed is only five to ten weeks without benefits, rather than disqualification for the duration of employment if the discharge were for gross misconduct. Similarly, claimants can be denied benefits for a period of five to ten weeks rather than for the duration of unemployment if they quit without good cause but can demonstrate valid personal circumstances to justify their actions.

The milder penalty that can be imposed with less evidence against the claimant appears to affect both the nature of the determination process and the decisions of adjudicators. Agency respondents reported that almost any voluntary separation or discharge would lead to benefit denial, and that the hearing process, which typically involves only the claimant and the adjudicator, usually focuses on the severity of the penalty that would be appropriate.

Although the definition of gross misconduct in State 3 closely resembles the definition of simple misconduct in the other states, there is some evidence that the availability of the lower-level denial penalty may lead to some laxity in detecting issues and in undertaking fact-finding. For instance, some respondents suggested that many claimants simply wait 10 weeks after separation before applying for benefits (i.e., voluntarily "self-serving" their penalties), knowing that they would be disqualified for 10 weeks at most under the milder penalty. It may be that in such circumstances the agency places little emphasis on determining whether it should impose the more severe penalty that requires reemployment and substantial earnings. The fact that the milder penalty is imposed in two-thirds of misconduct denials suggests either a weak search for misconduct issues under the more stringent standard of gross misconduct or a tendency to categorize gross misconduct issues as simple misconduct. If State 3 were ranked on the basis of its denials for *gross* misconduct (for which the definition corresponds with the description of the claimant's behavior used to define misconduct in the other five states), it would rank in the fifth rather than in the second quintile.

In terms of the rate at which nonseparation determinations lead to denials, the high rates in State 3 appear to be associated with the low rate at which determinations are made. Most likely, given a number of relatively weak spots in the procedures for detecting issues, only the most obvious issues reach determination, and, hence, the likelihood of denial is high. Four weaknesses in detection emerged from our examination: (1) a narrowing of the scope of potential able and available issues based on eligibility rules; (2) a low likelihood of referral by the employment service, and thus a low exposure of claimants to the risks of job refusal or to the detection of availability issues; (3) inconsistent adherence to state policy on work-search requirements; and (4) infrequent administration of ERP interviews.

The scope of continuing eligibility issues that can potentially arise in State 3 is somewhat narrowed by legislation and regulations that allow claimants who become ill or disabled to continue drawing benefits until they are offered a job referral or position, at which time they must demonstrate an ability to work in order to remain eligible. Although such instances may occur relatively infrequently, they will not lead to a determination in State 3, whereas they should in other states.

The likelihood of exposing claimants to job referrals is low in State 3 because of its loose employment-service registration procedures. Under state policy, initial claimants are excused from the registration requirement if they expect to be recalled within 10 weeks, a long period relative to the period in other states. Moreover, even those who are required to register are normally placed in an "inactive status." Brief information on their skills and experience is recorded and filed but is not entered in the active files from which candidates for referral are usually selected. No attempt is made to match these claimants to jobs unless "active status" (voluntarily registered) individuals do not provide enough referrals to meet the demands of employers. This approach to registration most likely holds down the rates at which both able and available and refusal issues arise.

Although state policy requires ongoing claimants to engage in active search if they do not expect to be recalled within 10 weeks, we detected inconsistent adherence to this policy. One office, although it required claimants to report employer contacts, did not appear to enforce this requirement by holding a determination when insufficient contacts were reported. The other office, according to a respondent, did not require claimants to make any employer contacts until after 10 weeks of unemployment. These practices reduce the chances of detecting availability issues.

Finally, the difficulties faced by State 3 in adhering to a schedule for ERP interviews weaken its ability to detect issues. Although ERP interviews are supposed to be held every 10 weeks, the average interval when we conducted our site visit was 13 weeks. In fact, it was reported that some claimants are never scheduled for ERP interviews. In the urban office of State 3, about 20 percent of the scheduled ERP interviews were reported to lead to determinations for failing to appear; thus, difficulty in scheduling these interviews clearly reduces the number of issues that can be found.

State 4

The denial rate pattern of State 4 is dominated by its very low frequency of determinations. For issues pertaining to voluntary quit, misconduct, and able/available for work, State 4 ranks at the very bottom of the fifth quintile in determinations made, and it ranks in the third quintile for refusal-related determinations. However, the rates at which determinations lead to denials diverge. For determinations on voluntary quit and able/available issues, State 4 ranks in the first quintile for denials as a percentage of determinations. However, for misconduct and refusal issues, it ranks in the fourth and fifth quintiles, respectively. Overall denial rates are correspondingly low—in the fourth quintile for refusal issues and in the bottom of the fifth quintile for all others. The pattern of determination and denial rates in State 4 appears to be heavily influenced by three factors: (1) very restrictive rules on valid reasons for voluntary separation; (2) the possible deterrent effects of intake procedures and denial penalties; and (3) a more casual approach than seems to be true in some other states for investigating initial claims and reviewing ongoing claims.

Of the six states we visited, State 4 is the only one which does not allow personal reasons to justify voluntary separation, requiring that all quits be for reasons that can be attributed to the employer. If the potential claimant population of this state behaved in a manner similar to the corresponding populations of other states (i.e., quitting for personal reasons and then applying for benefits at the same rates), we would expect State 4 to show a high rate of denial relative to other states. In fact, the opposite is true: determinations occur very infrequently, and, although they almost always lead to denial, the net denial rate is very low. One possible explanation for this pattern is that the potential claimant population in this state is to some degree aware of the narrow definition of good cause for quitting, and, consequently, is less likely either to leave jobs voluntarily or to apply for benefits when they do leave voluntarily.

The possibility that information about the UI program may deter individuals from filing claims is supported by two other features of the program in State 4. First, unlike any of the other states we examined, State 4 provides orientation information about program eligibility requirements to applicants *before* they complete the required claim forms, and allows a week-long interval between the initial intake contact to identify separation issues and the fact-finding stage at which the agency collects information from the claimant. It is possible that when claimants learn about the eligibility rules, and about the possibility that they might not be eligible, they may refrain from following up a week later with a claim and fact-finding form. However, agency staff did not believe that this situation occurred with any significant frequency. If such situations do in fact arise, however, State 4 would not recognize that a determination was made.

It is also worth noting that State 4 imposes about the most severe denial penalty for quitting without good cause: disqualification for the duration of unemployment and until the claimant is reemployed for five weeks and earns 10 times the weekly benefit amount. The regression analysis results showed that more severe denial penalties for voluntary leaves are associated with lower denial rates, an association which our hypothesis suggests would be caused at least in part by a lower likelihood of ineligibles' applying for benefits. We suspect that the difficulty of requalifying for benefits in State 4 deters some individuals from applying if they believe they have quit without an acceptable cause. Given the narrow definition of good cause in State 4, the deterrent effect of the severe penalty would affect more individuals than would a comparable penalty in other states.

Procedures for reviewing initial and ongoing claims are less rigorous in State 4 than in States 1 and 2, and may contribute to the low frequency of determinations. Relative to the other states, intake procedures in State 4 do not impose a stringent requirement that employer responses on separation reasons be obtained before benefits are awarded. If the claimant's application has not raised any separation issues, and if the employer's response is not received within seven days, the agency will not initiate a contact with the employer and will proceed with processing the claim. Thus, it is possible that some quits without good cause or some discharges for misconduct will not be detected if the employer is either indifferent to or ignorant of the possible effects of the benefit award on its account. The review of ongoing claims also seems to be undertaken less carefully than in other states. Although State 4 requires ongoing claimants to list two employer contacts on two different days of the week, scrutiny of these reported contacts appears to be minimal, and reported contacts are not verified. According to agency respondents, only the most outrageously apparent fabrications of employer contact will prompt a determination.

As we noted in chapter 4, a high proportion of initial claims in State 4 are filed by employers for temporarily laid-off claimants, and it is worth considering whether this procedure could explain the very low rate of determinations. When employers submit initial claims on behalf of their employees, they are probably less likely to be questioned than if the same employees were required to file their own claims. Consequently, the agency would probably avoid making determinations on individuals whose circumstances of separation do in fact qualify them for benefits. Thus, such a practice should lead to a lower *determination* rate and to a higher rate of denials as a percentage of determinations, but should not affect the overall denial rates. The fact that the overall denial rate in State 4 is very low suggests that other factors, such as those described earlier, are more important.

The extremely low rates of determinations and the very high rates at which determinations lead to denials in State 4 may also partially be a product of the fact that the state performs adjudications centrally for potential disqualifying issues. As we pointed out in chapter 4, adjudicators in State 4 base their determinations primarily on written material forwarded by local office fact-finders; however, local fact-finding in State 4 does not require any hearing which involves both the claimant and the employer. Thus, in some cases, it is possible that central adjudicators make their decisions without an adequate knowledge of the facts. The very high rate at which centrally performed determinations are appealed in State 4 may indicate the respective parties' simple distrust of what seems to be a remote decision process, or it may indicate that adjudicators' decisions have a tendency to be at odds with the facts. The latter hypothesis is supported to some extent by the high rates at which both claimant- and employer-initiated appeals succeed in overturning the determination decision. In 1982, the rates at which appeals reversed determination decisions ranked State 4 among the top three states for employer-initiated appeals and in the top eight for claimant-initiated appeals.

State 5

Overall denial rates in State 5 are among the lowest in the country, ranking it in the fifth quintile for all four nonmonetary eligibility factors examined in this study. However, these low denial rates are due to an interesting pattern of determination rates and denials as a percentage of determinations. For quit-related issues, State 5 ranks near the bottom of the fifth quintile for determinations and in the fourth quintile for denials as a percentage of determinations. For misconduct issues, the state ranks among the lowest for determinations, but in the highest quintile for the percentage of determinations that lead to denials. Determinations for able/available issues are performed very frequently (the state ranks in the first quintile), but lead to denials less than 15 percent of the time (which ranks State 5 in the lowest quintile for denials as a percentage of determinations). Finally, refusal-related determinations occur very infrequently (at a fifth-quintile rate) but frequently lead to denials (ranking the state in the top of the second quintile in terms of this measure).

Based on our site visit, it appears that State 5 is generally poorly equipped to detect potential eligibility issues and to report actions as determinations. Only the most clear-cut issues are likely to reach the determination stage; hence, denial rates as a percentage of determinations could be expected to be quite high. This general observation is based on (1) the state's process for screening potential issues informally at intake, and (2) the absence of any effective employment service registration or work-search requirements.

Separation issues that would lead to determinations in other states appear frequently to be resolved in State 5 before the investigation reaches the point at which it is formally recognized as a determination. Responding to pressures to adhere to time standards for granting initial payments and resolving determinations, State 5 conducts initial fact-finding discussions with both the claimant and the employer immediately upon discovering a potential issue at intake. When these discussions indicate no reason for benefit denial, no determination is counted in the state's records, since no claim has yet been submitted for a benefit week. This screening process undoubtedly contributes to the extremely low frequency with which determinations are made for separation issues.

A number of procedures in State 5 make it unlikely that ongoing eligibility issues will be detected. First, requirements for registration with the employment service are very mild compared with other states, and do not appear to be enforced consistently. Only claimants who do not expect to be recalled within 13 weeks are supposed to register, and the offices we visited did not appear to enforce registration requirements in keeping with policy. One office excused initial claimants from referral to the employment service if they had *any* prospect of recall; the other office referred unattached claimants only *after* 13 weeks of unemployment. Moreover, the state has no requirement for active work search. Claimants can thus satisfy availability requirements by expressing only a passive interest in working or a willingness to work, rather than having to demonstrate that they are actively engaged in work search. Questions posed on weekly claim cards allow claimants to interpret their behavior rather than to state simple facts (e.g., "Did you refuse work *without good cause*?"). Finally, State 5 insists that information on job refusals come from the employer or employment service; the agency will not note any refusals reported voluntarily by claimants, nor will it initiate a determination based on such a report. Given the very low likelihood that the employment service will refer claimants to employers, failing to act upon claimants' reports severely reduces any chances the agency has of detecting those refusals that do occur.

In light of these general expectations about low determination rates, some explanation is clearly necessary for the anomalously high incidence of determinations for able/available issues in State 5. One possible explanation lies in the state's approach to scheduling personal appearances for claims filing and ERP interviews: appearances are scheduled for a particular day and hour; the failure to appear at the correct hour is noted on the claims file; and, upon the third such occurrence, a determination is initiated to determine whether the claimant is available for work. Relying heavily on personal claims filing would raise the incidence of such determinations, and, indeed, heavy personal filing was reported in the urban office we visited. We suspect that claimants may have difficulty in complying with this tightly scheduled approach for personal reporting, even when their difficulty does not necessarily reflect their unavailability for work. This interpretation is borne out by the low rate at which determinations for able/available issues lead to denials. Thus, although State 5 may have little chance of detecting inadequate claimant responses to job or referral offers, frequent occasions may occur when failing to comply with reporting procedures leads to counted determinations.

When detection procedures are weak, we expect that only the clearest issues will reach determination, and, hence, that a high percentage of determinations will lead to denials. This expectation is true for misconduct and refusal issues in State 5. However, the state ranks very low for quit and able/available issues. In terms of quit issues, we attribute the low rate to a fairly liberal definition of personal reasons as good cause for quitting. In terms of able/available issues, State 5 also seems relatively liberal in that it allows claimants somewhat greater latitude in restricting the scope of their job search and availability than do the other states. Claimants are allowed to limit the hours and shifts they will work, and no recognized rule of thumb exists in local offices about how quickly and to what extent claimants should adjust their job expectations as time elapses. Thus, the standards by which issues are to be judged when determinations arise do not provide a particularly strong basis for denials.

The low rate at which determinations for able/available issues lead to denials is probably caused most directly by the high rate at which determinations are made and the frequency with which they arise from procedural rather than substantive situations. The rate may also be held down by the relatively moderate standard for availability set by the state, which requires the claimant to be available for work only for the majority of the week. Since two days of unavailability do not justify a denial, determinations prompted by claimants' reporting at the wrong time probably rarely lead to denial.

State 6

The denial rate pattern of State 6 resembles the patterns of State 4 and 5. Overall, denial rates are low—in the fifth quintile for quit, misconduct, and able/available issues, and in the bottom of the third quintile for refusal issues. These denial rates reflect the pattern of determination rates, which also fall in the fifth quintile for the first two areas, in the bottom of the fourth quintile for able/available issues, and in the bottom of the third quintile for refusals. As does State 5, this state ranks quite high in terms of the rate at which misconduct-related determinations lead to denials (in the first quintile). The rate of denials relative to determinations is moderate (in the third quintile) for quit and refusal issues, and very low for able/available issues.

For both separation and nonseparation issues, we identified certain procedures which probably contribute to the relatively low rates at which determination issues are raised. At intake, the procedures in State 6 do not take advantage of information as fully or actively as do procedures in other states, particularly in States 1 and 2. For example, claims interviewers are explicitly not to note separation issues that might be suggested by claimants' answers to questions on the intake form; they are to note only those issues that pertain to the claimants' ability to and availability for work. A separation issue determination occurs only when an employer protests. Moreover, procedures are not the most favorable for obtaining employer information that could lead to a determination. The form that might elicit an employer protest is somewhat ambiguous, asking simply whether any reason exists to question the claimant's eligibility, rather than asking for the reason for separation. The form sent to employers demands a detailed written explanation of circumstances in order to support a protest. The burden placed on employers to lodge a protest is clearly greater in this state than in States 1 or 2.

Before conducting a formal determination, claims examiners in State 6 often want to confirm the existence of a reasonable cause for denial by clarifying information provided by employers before scheduling a determination hearing. The necessity for such clarification arises most frequently for misconduct issues, for which the determination rate in State 6 ranks lowest. State 6 respondents noted that, although there is no intention to discourage employers from continuing with a protest, a significant number of such clarification discussions between the examiner and the employer lead simply to dropping the issue. This clarification process thus contributes to the low determination rate for separation issues.

The existence of nonseparation issues seems relatively unlikely in State 6 because of the minimal work-search requirements and the lack of resources for ERP interviews reported during our site visits. In contrast to States 1, 2, 3, and 4, State 6 has no blanket work-search requirement which affects all unattached claimants. Registration with the employment service fulfills the legal requirements for labor-market exposure. If claims staff question the strength of a claimant's connection to the labor market, they can require that claimant to file personally and to document active work-search efforts; however, fewer than 1 percent of all claimants are in fact required to do so. For all other claimants, no regular report of employer contacts is required.

In addition, the thoroughness of ERP interviews in State 6 was severely undermined by staffing cuts. Consequently, ERP interviews in one office were being held every eight weeks, as scheduled, only for claimants whose availability and labor-market attachment had been questioned—specifically, those in high-demand occupations or those who are unemployed for a long time. For other claimants, ERP interviews had slipped to intervals of 12 or more weeks. In the other office, staffing problems cut back the frequency of ERP interviews, so that *none* had been conducted for a period of over five months prior to our visit.

Despite these problems, which could be expected to keep nonseparation issues to a low level, it is worth noting that the rate for refusal-related determinations in State 6 is higher than for other issues, as is the rate at which these determinations lead to denials. One possible explanation is that State 6 attempts to use the employment service to place UI claimants to a greater extent than do the other states we examined. At the time we visited, the agency had set a target that called for allotting 19 percent of the employment service referrals to claimants. This policy may lead to a greater number of referrals for UI claimants than is true elsewhere and, consequently, to more situations in which the claimant's response to the referral is open to challenge. The policies in State 6 seem to suggest that claimants who are eager for work are expected to conduct work-search activities independently, and that little purpose is served by forcing all claimants to provide a routine list of employer contacts. Conversely, the agency accepts a greater responsibility for using its own resources to direct claimants toward job opportunities than do the other states we visited and, hence, expose more claimants to situations in which they could refuse jobs.

C. General Conclusions About the Nonmonetary Determination Process

Despite the cautions expressed earlier about the difficulty of drawing clear inferences from observations of a limited number of states and from qualitative or subjective data, it is important to provide some assessment of what we have learned from the regression and process analyses. Our general conclusions are presented here in full recognition that they can serve only as guidelines for new policy and management initiatives, not as prescriptions for success. The discussion below deals with five topics: (1) the importance of issue-detection relative to fact-finding and adjudication; (2) factors that appear to affect success in detecting potential eligibility issues; (3) the significance of the severity of penalties imposed for denials; (4) the importance of clear policies and procedures; and (5) the organization of the fact-finding and adjudication process.

"Finding Issues" vs. "Deciding Issues"

State denial rates may vary to some extent because of differences in the behavior of potential claimants. Population characteristics and the public's perception of the UI program may lead to differences either in the rates at which unemployed individuals file for benefits or in the rates at which individuals take actions that lead to their unemployment. However, it appears to us that much of the variation in denial rates among the six states we examined can be attributed to differences in how well the states are able to deny benefits to individuals who have claimed benefits but who do not conform to program requirements. This denial process consists of three stages: (1) the definition of policy which stipulates eligibility requirements; (2) the policies and procedures which detect potential eligibility issues pertaining to individual claimants; and (3) the process of fact-finding and decisionmaking for identified issues.

Given a stated set of eligibility requirements, we quite strongly conclude that the ability of a state to deny benefits to the ineligible population will depend primarily on the effectiveness with which it detects determination issues, rather than on the consistency with which its determinations lead to denials. States with high determination rates also have high denial rates; moreover, even when a state denies benefits in a very high percentage of determinations, the net denial rate will be low if the determination rate is also low.

Determination rates dominate net denial rates in part because they vary more widely than do denials as a percentage of determinations. In table 5.1, the standard deviations divided by the means of determination and denial rates are presented for the six sample states and for all fifty-one state jurisdictions. This useful measure of variability is consistently higher for the rate of determinations than for denials as a percentage of determinations. The data on which this table is based provide clear examples of this difference. In the six-state sample, determination rates for voluntary separations ranged from about 21 determinations per 1,000 contacts to over 100, whereas denials as a percentage of determinations for the same issue ranged only between about 73 percent and 94 percent.

Table 5.1
Variability of Rates of Determination and Denials/Determinations

(Standard deviations/mean)

	Six-state sample		51 state jurisdictions	
Eligibility issue	Determination rate	Denials as percent of determinations	Determination rate	Denials as percent of determinations
Separation issues	.71	.17	.56	.20
Nonseparation issues	.79	.44	.65	.30

Determination rates vary more than the rates at which determinations lead to denials for several reasons. The process of fact-finding and adjudication is more administratively confined than the process of identifying determination issues. Fact-finding and adjudication are conducted by a smaller staff whose actions and decisions can be scrutinized and reviewed more closely than is true for the claims takers and clerical staff whose functions only contribute to issue detection. The adjudication process is constrained by legislative and judicial due process and timeliness standards, and is thus difficult to modify by managerial decision. Moreover, the adjudication process within a particular state has its basic ground rules in state policy, which may be more or less explicit but is relatively stable. However, the frequency with which issues are detected is affected not only by eligibility policy, but also by a wide range of administrative guidelines and procedures that may vary from office to office in their application, and that may be adhered to closely or loosely depending upon available staff resources, the pressure of claimant traffic, and the level of agency managerial control. Consequently, the rates of issue detection we observed vary much more widely than does the ability of states to deny benefits for identified issues.

By implication, policy and managerial initiatives to improve the detection of determination issues are considerably more feasible than those to improve the adjudication process itself. In fact, using the rate at which determinations lead to denials as a performance measure would serve little purpose. Based on our examination of these six states, it appears that where denials as a percentage of determinations are unusually high, the high rate most likely reflects deficiencies in issue detection rather than a particularly effective adjudication process.

Casting the "detection net" more broadly to expand the catch of issues for determination appears to be associated with less "efficient" detection, in that a higher percentage of issues will be resolved by awarding benefits. However, the purpose of the overall determination process is not to deny benefits efficiently; it is to ensure that a high percentage of ineligibles are denied, and that the procedures that are followed convey to claimants the seriousness of the agency about enforcing eligibility standards. Increasing denials by a process which examines more cases, considers them equitably, and ends up denying benefits for a lower percentage of determinations is consistent with those goals.

However, achieving a higher rate of determinations has cost implications. Increased staff resources may be necessary to achieve the higher rate of detection, and increased resources are very likely to be necessary to process more cases through adjudication. In the short term, increasing the number of determinations performed will increase federal reimbursements for administrative costs. Federal reimbursement for administrative costs is based on estimated "MPUs" (minutes per unit) of staff time required for each function in claims processing, determination, and other UI activities. For a given year, once MPUs are estimated from administrative activity studies and negotiated with the U.S. Department of Labor, increasing the volume of any particular activity (such as determinations) will lead to a corresponding increase in total reimbursement. However, because detecting additional (and possibly more complex) issues may require a greater average labor effort per determination than do those issues that are currently found, the increase in federal reimbursement may not adequately cover the extra state cost. In the longer term, investing administrative resources in a tighter detection effort and a greater volume of determinations may raise a state's MPU and thus increase the rate at which the state's determinations are reimbursed. However, the increase in federal reimbursement might not match the increase in the resources devoted to tighter detection efforts by the state, since no assurance exists that state requests based on MPU studies will be accepted as submitted to the funding-decision process. In both the short and long terms, therefore, resource constraints must be kept in mind if an effort is to be made to increase the rate of determinations.

Raising determination rates within resource constraints necessitates assessing the effectiveness of current detection methods and considering alternative uses of staff. For example, among the six states we examined, considerable variation exists in the extent to which they rely on the routine reporting and review of employer contacts as a method for identifying work-search deficiencies and availability issues, as opposed to a more tailored scrutiny of how well individuals are demonstrating the type of work-search effort reasonably suited to their employment history and prospects. These represent two very different uses of resources for detecting issues. We will return to this issue of reporting and review in the next section.

Factors That Affect Determination Rates

Our examination of the six sample states uncovered differences in the methods by which the UI agencies detect eligibility issues for determination. This section provides a summary of which approaches appear to be more effective than the others.

Before pointing out state detection procedures that seem effective, we should acknowledge that determination rates are not a perfect measure of the ability of an agency to identify issues. In at least some cases, a few states, such as sample States 5 and 6, perform some type of informal investigation upon detecting a potential issue, and drop some issues before they reach the point at which they are counted as a determination. Some state procedures tend to create issues which focus on the ability of claimants to comply with reporting procedures, but which only rarely lead to benefit denials. For example, the high rate of able/available determinations in State 5 seems to be caused by reporting practices rather than by the detection of substantive issues. Thus, determination rates may understate or overstate the ability of an agency to find substantive questions about a claimant's eligibility.

Procedures that lower determination rates by resolving some issues through informal inquiry prior to determination could be viewed as an effective managerial tool because they hold down the burden and costs imposed on the determination process. However, if dropping issues prior to determination is indicative of a general tendency to avoid recognizing issues and bringing them to determination, and if it reflects a low managerial emphasis on finding issues, it instead becomes part of a larger issue. The states we observed which did undertake some type of screening, even though it may not explicitly be recognized as such, generally follow less active and persistent procedures for detecting issues. States 5 and 6 have instituted relatively weak procedures for obtaining employer input on separation issues, and take relatively little initiative themselves in identifying issues. Moreover, they do not impose an effective work-search requirement on most claimants, eliminating one potentially important way to test the ongoing availability of claimants for work. Thus, even though the determination rate is not a perfect measure of issue detection, it must be viewed as an important indicator.

To detect separation issues, we would emphasize two practices that seemed to contribute to high determination rates in our sample of six states. The first practice would be to initiate the determination process based on information from claimants, employers, or the agency itself, rather than restricting acceptable sources for identifying particular issues. State 6, for instance, insists that separation determinations be initiated by employer protests and will not initiate a determination on the basis of claimants' statements at intake. State 5 does not recognize ongoing claimants' reports of job refusals; it relies entirely on notification by the employment service that the claimant refused a job to which he/she was referred or on notification by employers, at their own initiative, that claimants refused jobs offered to them through their own search activity. We frequently heard respondents from other states say that most issues arise from information presented by claimants. Even if the statements of claimants are ignored, some issues will of course be raised by another party, but it seems likely that at least some issues will consequently go undetected.

If a state wishes to maximize its ability to find issues, initiating a determination regardless of the source of information seems particularly important because of the possibility that some issues may be important to the agency but less important to the employer. For instance, employers which pay a maximum tax rate may conclude that the burden of protesting a claim, documenting it fully, and participating in an adjudication hearing is unwarranted, since the individual case will have no direct effect on their tax burden. From the agency perspective, however, such an issue might be worth pursuing, since each unmerited award of benefits contributes to program costs and, in the longer run, places upward pressure on employers' taxes.

A second guideline for detecting separation issues effectively, and one which clearly pertains to the first guideline, is to insist upon obtaining simple factual information from employers about the reasons for the job separation. We observed two practices that deviated from this principle. One was failing to ensure that employers' responses about separation reasons are received before initial claims are processed. In states where forms are sent to employers and no follow-up is performed if the response has not arrived before the first weekly claim, it appears that the agency implicitly assumes that the purpose of the form is simply to allow the employer an *opportunity* to protest. Where persistent follow-up is undertaken to obtain an employer's response, procedures in effect recognize the principle that it is the *agency* and not the employer which bears responsibility for protecting the integrity of the eligibility process. When employers' responses are optional, some real issues may go undetected. The second practice that departed from this guideline was asking employers whether or not they had any reason to question a claimant's eligibility, rather than simply asking for a factual statement about the circumstances surrounding separation. The former approach allows employers to decide whether an issue should be pursued; the latter emphasizes the agency's role in making that judgment.

Determination rates for nonseparation issues seem to reflect three general factors that vary from state to state: (1) the scope of work-search requirements and the methods used to monitor compliance; (2) the purposefulness and frequency with which claimants are questioned about ongoing eligibility issues; and (3) the consistency with which ongoing claims are reviewed.

It seems clear that a formal requirement which stipulates that claimants engage in their own active work search is a necessary foundation for effectively assessing their exposure to the labor market as a measure of their availability for work. Without such a requirement, the UI agency has no basis for questioning any claimant's availability for work based on a lack of search effort, and it has no basis for implementing procedures to monitor work-search activities. Ironically, State 5, the only one in our sample with no formal work-search requirement at all, ranked very high in the frequency with which it made able/available determinations, but the overall denial rate for those issues was so low that we concluded that procedural rather than substantive issues produced the high rate.

A formal work-search requirement is necessary but not sufficient to ensure that availability and refusal issues are identified. The procedural definitions of evidence required to document adequate work search also seem to affect the determination rate. Two major options seem available: (1) to require a minimum number of weekly contacts with employers and to report them on claim cards; and (2) to prescribe the types of search efforts that are expected of claimants in their particular occupations, and to review periodically how well they are measuring up to such standards. Our process analysis indicates that either approach can be effective, but only to the extent that it is taken seriously. Without a serious review of and consistent response to insufficient employer contacts, routine weekly reporting of contacts is open to serious abuse and may serve little detection purpose.[1] In State 4, for example, employer contacts are regularly reported, but only the most apparent fabrications of employer names prompt determinations, and the frequency of determinations on availability issues is at the bottom of the state ranking. Under the more flexible approach in which claimants are clearly required to conduct independent work search but to report their activities only at fairly long intervals during ERPs, some possibility exists that less eager claimants will not feel compelled to look for work. In State 1, which uses this approach, it appears that sufficient resources are devoted to assessing the adequacy of individual search efforts, because the frequency of availability determinations ranks high in the second quintile. Either method can work if carried out thoroughly.

Determination rates and, consequently, denial rates also seem to depend on the purposefulness and frequency with which claimants' ongoing eligibility is questioned. Two particular aspects of ongoing eligibility review are important: the manner in which questions are posed to claimants on weekly or biweekly claim cards, and the frequency and substance of ERP interviews. Questions on claim cards should request simple factual statements from claimants, rather than allowing them to judge whether their behavior is within eligibility norms and incorporating that judgment in their answers. For example, State 5, which asks claimants whether they refused a job without good cause, ranks in the fifth quintile for refusal-related determinations. This claim card question may not account entirely for that low rate, but probably contributes to it. Claim card questions can usefully reflect an overall approach for identifying *possible* eligibility issues rather than clear ones. For example, State 1 asks claimants whether they were available for work during the entire week, even though one day of unavailability is acceptable. Asking the claimant whether he/she was available "every day but one" would indicate that availability is not an absolute standard, and would perhaps encourage some claimants to shrink their reported periods of unavailability down to the apparently required size when completing their claims reports. State 1 ranks in the first quintile for able/available determinations.

For most claimants in the states we examined, the Eligibility Review Process interview is the only time after the initial claim has been filed that the agency has personal contact with the claimant under routine procedures. The information uncovered in these interviews can raise issues, as can merely scheduling them and observing claimants' ability to appear at the requested time. The states we examined varied widely in the frequency with which they plan to and are able to schedule ERPs—from State 2, which holds them every four to seven weeks with unattached claimants, to State 5, which in practice conducts ERP interviews only every thirteen weeks on average. States that schedule more frequent ERP interviews tend to have higher determination rates for nonseparation issues.

The rigor and consistency with which ongoing claims reports are reviewed by UI staff also vary considerably from state to state, and are probably an important factor in the ability of states to detect ongoing eligibility issues. In some states, such as in State 2, it appears that the "wrong" answer to a claim card question automatically prompts a determination, and an insufficient number of reported employer contacts leads to a warning to the claimant on the first occurrence and a determination on the second. In others, such as States 3 and 4, adherence to policy is spotty. In State 3, neither office we visited enforced employer contact requirements according to state policy; in State 4, the process of reviewing employer contacts was described as cursory. State 2 ranks in the middle of the fourth quintile for all nonseparation determinations, considerably above States 3 and 4, which rank, respectively, in the middle and bottom of the fifth quintile.

Importance of Denial Penalties

The severity of penalties imposed on denied claimants can potentially affect the integrity of the eligibility determination process and program finances in two ways. First, more severe penalties can affect the behavior of claimants and potential claimants—for example, by deterring individuals from taking such actions as quitting or refusing a job. Knowing that benefits will be denied for the duration of unemployment is probably a stronger deterrent than knowing that benefits will be received after a fixed number of weeks of denial. More severe penalties may also be more likely to discourage individuals from applying when they suspect that their actions will make them ineligible. Both of these effects were incorporated in our hypothesis about the effects of disqualification for the duration of unemployment on denial rates for voluntary separation, misconduct, and refusal. The more individuals are deterred from such actions or discouraged from filing, the lower the denial rates are expected to be, and the regression analysis seems to support that hypothesis.

The second way in which the severity of penalties can affect the UI program is by influencing administrative behavior in the determination process. For purposes of formulating hypotheses for the regression analysis reported in chapter 2, we explicitly assumed that the severity of denial penalties does not affect the likelihood of denial once a determination is initiated. All of the six states in our process analysis sample impose disqualification for the duration of unemployment for quit, misconduct, and refusal; thus, there is not much variation with which to test the possibility of such an effect. However, State 3 lends some support to the idea that the severity of the penalty may in fact affect the likelihood of denial, although not as a result of any clear policy directive. The two-level definitions of voluntary quit and misconduct in State 3 seem to give claims staff the option of imposing milder penalties based on less imposing evidence against the claimant. In effect, it becomes easier to justify denial and perhaps easier to deny benefits because the effects on the claimant are less severe.

Although penalties that deny benefits for a certain number of weeks may lead to more denial decisions than would disqualification for the duration of unemployment, the amount of new employment required to requalify after a disqualification is probably too subtle a variation to affect either claimant behavior or adjudicators' decisions. In our six-state sample, requalification requirements ranged from five weeks to ten weeks of new employment earnings; two states also required four or five weeks of elapsed time in new employment. We could not discern any indication that tougher requalification requirements had any effect on the tendency either of claimants to apply for benefits or of staff to deny them.

Although less severe penalties may lead to more denials, milder penalties may not be a desirable policy, and particularly not as part of a two-level definition of eligibility rules. On the one hand, it appears to us that defining two degrees of violation may mean that issues which actually warrant denial under the more demanding standard may be less energetically pursued. On the other hand, this arrangement may mean that both the claimants and the agency will exhibit a tendency to accept benefit denials under the looser standard without thoroughly developing the arguments that would support the award of benefits and no penalty.

Furthermore, less severe penalties, even if they lead to increased denial rates, may not restrain overall program costs more effectively. The regression results and some of our process analysis observations suggest that more severe penalties may be associated with lower denial rates because they deter ineligibles from applying for benefits, and possibly deter behavior which leads to unemployment. UI benefits can be held down by this deterrent effect without the administrative cost of processing applications, perhaps to the same extent as increased denial rates.

Clear Policies and Standards

The states we visited varied dramatically in the extent to which they made UI policies and procedures available in a clear, organized form, or even consistently recognized them in more informal ways. At one end of the spectrum, States 1 and 2 have very detailed regulations that provide clear guidance as to the requirements imposed on claimants and how eligibility requirements are to be interpreted and applied to a wide variety of claimant circumstances. In sharp contrast are states such as State 3, in which regulations do not provide definitions of nonmonetary eligibility requirements or interpretive guidance, and in which we could find no currently maintained, comprehensive set of procedures to fill this gap. Not surprisingly, we found that in states that had more comprehensive and detailed written policy and procedures, the staff's understanding of state policy was more accurate and more consistent.

Detailed and specific policies tend to restrict the amount of discretion that can be exercised by claims staff in considering each claimant's case. To the extent that the clarity of defined policy is effectively communicated to line staff, its effect should be to increase the consistency with which similar cases are treated in the determination process, which is a desirable end. One legitimate concern, of course, is that very detailed, specific regulations may make it impossible for determination decisions to respond to the subtle differences in individual claimants' situations which might not be differentiated in program rules. This problem was in fact described by some agency respondents in State 2. Although claims staff recognized that many claimants, particularly in rural areas, had few employment options open to them and few target employers which could be contacted, they maintained that their specific regulations forced them to enforce work-search requirements rigorously.

However, detailed and specific program guidelines need not prompt claims staff to undertake unreasonable enforcement activities, and probably provide greater protection for claimants than do nebulous and unwritten rules. For instance, the rules in State 2 could describe circumstances in which new employer contacts every week do not constitute a reasonable expectation. Even if procedures require claimants to report a specified number of employer contacts per week, state policy could also allow adjudicators to consider the occupations of individuals and their specific job markets in performing determinations prompted by insufficient reported contacts. In contrast, the lack of clearly written rules makes it more difficult for adjudicators to justify their decisions, and more difficult for claimants to understand the standards they must meet and to prepare arguments in their defense. Agency adjudicators then apply unwritten standards which may be understood and interpreted quite differently by different adjudicators, and leave claimants with no reasonable basis for predicting the relationship between their behavior and the adjudication outcome. In such circumstances, high standards of due process may be difficult to achieve.

Organization of Fact-Finding and Adjudication

Three variable factors were observed in the manner in which the sample states conduct fact-finding and adjudication. First, states varied in the extent to which they insisted on conducting all fact-finding within the context of a recognized determination process, as opposed to allowing some informal fact-finding and issue resolution before the process was considered a determination. Second, some variation exists in the extent to which states relied on in-person interviews in which the claimant and (where relevant) the employer were present, as opposed to telephone fact-finding and separate contacts with the employer and claimant. Finally, in one state, fact-finding was performed by one staff person in the local office, and the determination decision was formulated and written up by a different person in the state office. In all other states in our sample, fact-finding and adjudication were performed by the same person in the local office. Our examination of the six states leads us to three general conclusions about the effects of these variations.

The first conclusion, already expressed in other contexts earlier, is that a broad view should be taken of the types of information that justify inquiry and some form of determination. Identifying more issues, rather than trying to identify only those issues that stand a good chance of leading to denial, seems more likely to lead to the effective denial of a high percentage of truly ineligible cases. However, casting the broad net for potential issues certainly increases the workload imposed on staff who conduct fact-finding and determinations.

Thus, the second conclusion is that agencies must obviously deal in some way with the workload burdens imposed by high frequencies in the determination process. We can distinguish between two approaches that we observed. Some states, by conducting some informal clarification and fact-finding before the formal determination process, are able to eliminate some issues before reaching the point at which a formal written decision and notification are necessary. This approach reduces the workload to some extent by avoiding part of the work required in a formal determination. The second approach is simply to improve the efficiency of the determination process. For example, State 2, which has detailed regulations and a computer system capable of generating notifications (including standard text selected by adjudicators), maintains a production rate estimated at over 100 determinations per week by each adjudicator when work volume demands it. In contrast, State 6, which has a completely manual system, sets a production target of one-quarter of the maximum production rate of State 2 and apparently has difficulty meeting that target.[3] To be sure, the tendency in State 2 to perform determinations whenever any issue is raised probably creates a determination workload which includes more straightforward and quickly resolvable issues than would be true in State 6, in which some obvious issues are eliminated before reaching the determination process. This difference, however, does not seem likely to account for the substantial differences in overall productivity. As we observed earlier, issue screening seems very often associated with other practices that may prevent valid issues from being identified. Thus, improving the efficiency of the determination process seems to represent a sounder course for dealing with resource problems than would efforts to avoid the formalities of the determination procedure.

Finally, our observations in the six states underscore the importance of maximizing the information available to the adjudicator who is responsible for making determination decisions, for the sake of rendering informed decisions that promote confidence in the thoroughness and equitability of the determination process, and to avoid frequent recourse to the appeals process. Two states that we examined pointed out this issue particularly clearly. State 4, which conducts most determinations centrally, ranks very high both in the frequency of appeals and in the frequency with which determination decisions are overturned in appeals. Although central adjudication was initially adopted to reduce the costs of determination, it is possible that the same decision has caused an increase in the cost of the appeals process, which in 1982 had to be undertaken for almost one of every four determination decisions. In State 2, although determinations are performed locally, for some reason employers tend not to participate in the determination hearings, even when they may have raised the determination issue. Respondents reported that employers participate in fewer than 25 percent of determination fact-finding interviews to which they are invited. The apparent result, however, is that determination decisions are more likely to be challenged by employers; for example, in 1982, employers in State 2 initiated appeals on about 6 percent of all determinations, a rate exceeded in only one or two other states. Moreover, these appeals were unusually successful, resulting in a reversal about 38 percent of the time, a success rate which ranks among the three highest in the country.

Some tension obviously exists between the goals of conducting determinations efficiently and maximizing the information that is developed through fact-finding. Insisting that employers and claimants be present for all fact-finding interviews in which both are relevant is not only infeasible but would also substantially increase the costs of the process—in many cases unnecessarily. Some states conduct fact-finding hearings by telephone or perform separate contacts to gather information from the parties involved. No extreme solutions are suggested, but two concluding suggestions are offered. First, determination decisionmaking by staff who are not involved in fact-finding, using primarily written summaries of facts and without personal contact with the parties, may be counterproductive. Second, states should encourage relevant parties to participate in a determination whenever it appears that their interests are at stake and that there is some chance that they have further information or rebuttals to offer.

NOTES

1. The importance of such review is highlighted by the results of the UI Random Audit pilot test, which showed that the major source of UI overpayments was lack of adherence to the work test. See Jerry L. Kingston, Paul L. Burgess, and Robert D. St. Louis, "The Unemployment Insurance Random Audit Program: Some Results and Implications," Unemployment Insurance Service, Employment and Training Administration, U.S. Department of Labor, November 1985.

2. Study MPUs in these two states reflect these productivity differences. For FY 1983, State 6 had a study MPU of over 115 minutes on intrastate separation issue determinations, as compared with less than 48 minutes for State 2. MPUs for nonseparation issues were almost 75 minutes for State 6 and just under 35 minutes for State 2.